



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

JUDICIAL REVIEW APPLICATION NO. 366 OF 2014

BETWEEN

GATEWAY INSURANCE COMPANY LIMITED.....APPLICANT

VERSUS

NAIROBI COUNTY GOVERNMENT..... RESPONDENT

AND

1. ROBERT KIBORO

2. ENGINEER ISAAC WANJOHI

3. ERIC NESBIT

REPRESENTING CERTAIN SHAREHOLDERS

OF GATEWAY INSURANCE

COMPANY LTD.....INTENDED INTERESTED PARTY/APPLICANT

RULING NO. 2

1. The 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Intended Interested Parties' herein, Robert Kiboro, Engineer Isaac Wanjohi and Eric Nesbitt state that they are representing Certain Shareholders of Gateway Insurance Company Limited. The said Intended Interested Parties have filed a Notice of Motion application dated 24<sup>th</sup> May 2019 in which they were seeking the following orders:-

**a) This Court be pleased to order the joinder of the Applicants Eng Isaac Wanjohi, Robert Kiboro and Eric Nesbitt in these proceedings in respect of Execution Proceedings only.**

**b) This Court be pleased to restrain by an injunction the Law Firm of M/S Coulson Harney Advocates from representing or acting for M/S Sanlam General Insurance Agencies Ltd in these proceedings due to conflict of interest.**

2. The application is supported by the grounds therein and in an affidavit sworn on 24<sup>th</sup> May, 2019 by Robert Kiboro, the 1<sup>st</sup> Intended Interested Party, on his own behalf and on behalf of the other Intended Interested Parties. He deponed that he is a signatory to the Share, Sale and Subscription Agreement dated 31<sup>st</sup> October, 2014 between Certain Shareholders of Gateway Insurance Company Limited and Pan Africa Insurance Holdings Ltd and Gateway Insurance Company Limited, and attached a copy of the said Share, Sale and Subscription Agreement. Further, that the Intended Interested Parties were appointed by the Certain Shareholders of Gateway Insurance Co. Ltd in the said agreement mentioned above, and attached a copy of the minutes appointing them. He contended that the said Sale and Subscription Agreement was prepared and drawn by the law firm of Coulson Harney Advocates upon their instructions and was approved by all of them.

3. On 11<sup>th</sup> November 2020, this Court directed that the Intended Interested Parties' Notice of Motion application dated 24<sup>th</sup> May 2019 be heard and determined before a pending Notice of Motion application dated 17<sup>th</sup> December 2019 filed by the *ex parte* Applicant.

4. It is the Intended Interested Parties case that the law firm of Coulson Harney Advocate is acting for for Sanlam General Insurance without their consent, and that they object to the said law firm so acting in this matter as there is a likelihood of a conflict of interest. They

averred that the two other parties in the Share Sale and Subscription Agreement, namely Gateway Insurance Company Ltd and Panafrica Insurance Company merged or changed their names to become Sanlam General Insurance Co. Ltd. Further, that clause No. 4.6. of the said Agreement specifically provided that the said Certain Shareholders would pursue the Debt owed to Gateway Insurance Co. Ltd by the City Council of Nairobi as per the judgement in HCCC 890 of 2002, which when recovered would belong to them as part of their entitlement after selling their shares in Gateway Insurance Co. Ltd to Panafrica Insurance Company Ltd, which later converted itself to Sanlam General Insurance Co. Ltd.

5. Therefore, that pursuant to that mandate, they appointed a Debt Collector M/S Njomuki Agencies to collect the debt acting on behalf of Gateway Insurance Co Ltd and file court proceedings where necessary, which debt collectors informed them that they had appointed the law firm of Njiru Boniface & Co Advocates to advise and represent them in Court. However, that without consulting with them, M/S Sanlam General Insurance Ltd removed their said Advocates from the suit and appointed Coulson Harney Advocates who were their common lawyers in the Share, Sale and Subscriptions Agreement, and therefore potential witnesses in the dispute between them and Sanlam Insurance. The deponent also stated that on 6<sup>th</sup> May, 2019, he attended a meeting with the directors of Sanlam General Insurance Ltd. about representation by advocates in this case and it was agreed that the law Firm of Coulson Harney Advocates should cease appearing in Court in this matter, and representation do revert to Njiru Boniface & Co. Advocates. However, that the law firm of Coulson Harney has gone ahead to issue summons to officers of the City Government demanding payments

6. Lastly the Intended Interested Parties stated that Certain Shareholders named in the Share, Sale and Subscriptions Agreement have a serious interest in the debt owed by the Nairobi County City Government and would like to be joined in these proceedings, and that further debt collection be suspended until the dispute between them is resolved.

### **The Response**

7. The *ex parte* Applicant filed a Replying Affidavit sworn dated 23<sup>rd</sup> July, 2020 by Emma Wachira, an Advocate of the High Court of Kenya working for Sanlam General Insurance Limited, which she stated is the predecessor company of the *ex parte* Applicant. The *ex parte* Applicant's case is that the prayer for joinder is misguided because a party can only be joined to a suit during the pendency of the suit, but not after the same has been concluded. Further, that both the civil Suit and these proceedings have been finalized and the final decrees have been issued, and that the joinder of the proposed Interested Parties at this belated stage will not assist the court to effectually and completely adjudicate upon any question in these proceedings The *ex parte* Applicant added that there are no unique or special circumstances disclosed by the proposed Interested Parties that justify the deviation from this rule.

8. According to the *ex parte* Applicant, it is a separate legal entity form and its shareholders, including the proposed Interested Parties, and that the present proceedings relate to the recovery of decretal sum owing to the *ex parte* Applicant and not to the proposed Interested Parties. Therefore, that the proposed Interested Parties have no interest in the present proceedings, and are not in any way necessary parties in the present proceedings between the parties. On the interest alleged by the proposed Interested Parties purport based on clause 4.6 of the Share and Sale Subscription Agreement, the *ex parte* Applicant claimed that the said clause 4 provides that the proposed Interested Parties would receive a special dividend if the claim in the Civil Suit was successful before 31<sup>st</sup> December, 2016, and their stake therefore is not in these proceedings but rather in the payment of a dividend by the *ex parte* Applicant. In addition, that clause 18.1 and 18.2 of the Agreement provides that any dispute arising out of or relating to the agreement including its interpretation ought to be referred for resolution by way of arbitration. She deposed that any interests of the proposed Interested Parties which arise by virtue of the Agreement, including any claim in respect of the entitlement or payment of the dividend ought to be submitted to arbitration.

9. The *ex parte* Applicant also contended that the matter of its representation by the firm of Coulson Harney LLP is *res judicata*. Given that it filed a Notice of Motion dated 7<sup>th</sup> February, 2018 in these proceedings to have the firm of Coulson Harney LLP come on record as its advocates, in place of its erstwhile advocates, Boniface Njiru & Company Advocates. Further, that Mr. David Munga, the proprietor of Niomuki Agencies which had purportedly acted for the Applicant as an agent to recover the debt from the 3<sup>rd</sup> Respondent, also swore a Replying Affidavit thereto on 27<sup>th</sup> February, 2018 in opposition, wherein he averred that there existed a dispute between the Applicant and some of its shareholders in respect of the Agreement and that on this basis, the firm of Coulson Harney LLP ought not to be allowed to represent the Applicant. The *ex parte* Applicant further contended that this Court delivered a ruling on 24<sup>th</sup> July, 2018 granting leave to the firm of Coulson Harney LLP to come on record as its advocates in place of Boniface Njiru & Company Advocates, which ruling has not been stayed, reviewed or set aside on appeal. The *ex parte* Applicant asserted that the Proposed Interested Parties now seek to re-litigate the issue of its representation by the firm of Coulson Harney LLP which issue has already been determined by this Court.

10. Lastly, the *ex parte* Applicant averred there is no conflict of interest arising from its continued representation by the firm of Coulson Harney LLP for the reasons that the proposed Interested Parties are not parties to these proceedings and their intended joining to these proceedings cannot be a justification for the restriction of the *ex parte* Applicant's right to appoint a firm of advocates of its choice to act in the matter. Further, that while the firm of Coulson Harney LLP drafted the Share, Sale and Subscriptions Agreement, the said firm of advocates is not a party to the Agreement and therefore has no interest in respect thereof. In addition, that in the present proceedings the *ex parte* Applicant is pursuing recovery of the decretal sum from the Respondents, and that the present proceedings have not been filed against any of the parties to the Agreement including the proposed Interested Parties, neither has the said firm has not been instructed to act for the *ex parte* Applicant in any matter against the interests of any of the parties to the Agreement. I was also deposed that there are no proceedings that have been instituted by any of the proposed Interested Parties against the *ex parte* Applicant that would necessitate the calling of the firm of Coulson Harney LLP as witnesses, or give rise to any conflict of interest.

11. In conclusion the *ex parte* Applicant contended that its decisions, including that of appointment of its advocates are made by its Board of Directors. Therefore, that the proposed Interested Parties as shareholders of the *ex parte* Applicant, have no right to appoint a debt collector to act on its behalf to recover the decretal sum, and that their consent is not required to enable the firm of Coulson Harney LLP to act for the *ex parte* Applicant. The *ex parte* Applicant denied that it agreed to change its representation in these proceedings from the firm of Coulson Harney LLP to the firm of Njiru Boniface & Co Advocates, and contended that it ought to be allowed to enjoy its sacrosanct right to be represented by an advocate/firm of advocates of its choice, and that the allegations of conflict of interest are misguided and meant to frustrate and delay of these proceedings.

12. The Respondents did not file any response to the Intended Interested Parties' application, nor participate in its hearing.

### **The Determination**

13. The instant application was canvassed by way of written submissions. The Intended Interested Parties Advocates on record, Boniface Njiru & Company Advocates, filed submissions dated 30<sup>th</sup> June, 2020, while the *ex parte* Applicant filed its Submissions dated 9<sup>th</sup> October, 2020 which were Coulson Harney LLP its advocates on record. The first issue that needs to be determined is whether the Intended Interested Parties have met the threshold for joinder in this suit, and if so, whether they merit the orders sought of injunction against the law firm of Coulson Harney LLP.

14. On the issue of joinder, the Intended Interested Parties reiterated the arguments made in their pleadings, and submitted that the Certain Shareholders of Gateway Insurance Company Limited have established their interest in the execution proceedings and the retention or custody of the money collected from the Judgement Debtor. They asserted that the power of the Court to add a party is wide and very discretionary under Rule 10 (2). Under Order 53 Rule 6 which concerns judicial proceedings, the power of the Court to allow any person to be added is even wider. , and reliance was placed on the decision by Odunga J. in the case of **Republic vs Salaries and Remuneration Commission Ex-Parte Parliamentary Service Commission & 4 others, [2018] eKLR,**

15. The *ex parte* Applicant on its part submitted that the current position is that it is at the execution stage and that the power to add a party to the proceedings is based on the provisions of Order 1 Rule 10 of the Civil Procedure Rules, 2010. It is the *ex parte* Applicant's position that this Court may exercise this power at any stage of the proceedings before judgment is entered as held in **JMK v MWM & Another [2015] eKLR,** and that the Court may only allow an order for joinder after judgment where there are unique and special circumstances to justify such joinder as noted in **Boaz Kipchumba Kaino v G.H. Tanna & Sons Ltd; Abdu Mukhwana & 3 others (Interested Parties), [2019] eKLR.** The *ex parte* Applicant submitted that there are no special or unique circumstances disclosed in the present proceedings that justify the joinder of the proposed Interested Parties.

16. It was also contended that the Court of Appeal in the case of **Pravin Bowry vs John Ward & Another [2015] eKLR** set out the applicable test for an application for joinder, and made a distinction between joining a party who the court ought to join as a defendant and one whose presence before the court is necessary in order to enable the court effectually, completely adjudicate upon and settle all questions involved in the suit. The *ex parte* Applicant submitted that the presence of the Proposed Interested Parties who are its shareholders is not necessary in these proceedings because the court has completely adjudicated upon and settled all the questions involved in the civil suit and the present proceedings.

17. For this reason, it was submitted that the joinder of the proposed Interested Parties will serve only to delay the ultimate repayment of the decretal sum to the *ex parte* Applicant. In addition, that the proposed Interested Parties admit that their interest in these proceedings is allegedly based on a contract, namely the Share and Sale Subscription Agreement dated 31<sup>st</sup> October, 2014 entered into between *inter alia* the *ex parte* Applicant and the proposed Interested Parties, and the Respondent is not a party to that Agreement. Lastly, that the Proposed Interested Parties consented under the said Agreement that any dispute arising out of or relating to the Agreement including its interpretation be referred for resolution by way of arbitration.

18. I have considered the pleadings and arguments made by the parties on the issue of joinder, and the decision whether or not to join a party is an exercise of discretion of the Court. Order 1 Rule 10 (2) of the Civil Procedure Rules provide for a party who may be enjoined in a suit as a necessary party as follows:

**“The court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the court to be just, order that the name of any party improperly joined, whether as plaintiff or defendant, be struck out, and that the name of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the court may be necessary in order to enable the court effectually and completely to adjudicate upon and settle all questions involved in the suit, be added.”**

19. It has been emphasised in various decisions including **Meme v Republic, [2004] 1 EA 124** and **JMK vs MWM & Another [2015] eKLR,** that the main factor that determines if one is a necessary party or not in a cause of action, is that a question in the said action cannot be effectually and completely settled unless the party is joined, and that this factor should be interpreted liberally, and should not be restricted merely to the parties involved in the suit, but all persons necessary for a complete adjudication.

20. Specifically, with respect to judicial review proceedings, a party may be joined to proceedings under Order 53 rules (2) and (4) of the Civil Procedure Rules if it is demonstrated that he or she is a necessary party to, or is directly affected by the proceedings. Order 53 Rule 2 and 4 provide as follows:

**“(2) The notice shall be served on all persons directly affected, and where it relates to any proceedings in or before a court, and the object is either to compel the court or an officer thereof to do any action in relation to the proceedings or to quash them or any order made therein, the notice of motion shall be served on the presiding officer of the court and on all parties to the proceedings....**

**(4) If on the hearing of the motion the High Court is of the opinion that any person who ought to have been served therewith has not been served, whether or not he is a person who ought to have been served under the foregoing provisions of this rule, the High Court may adjourn the hearing, in order that the notice may be served on that person, upon such terms (if any) as the court may direct...”**

21. J. Odunga in explaining how such direct effect is to be demonstrated in judicial review proceedings held as follows in **Republic vs Office of the Director of Public Prosecution & 2 others Ex-Parte Sylvia Wairimu Njuguna also Known as Sylvia Wairimu Muli**

[2018] eKLR:

“25. Since judicial review orders are concerned with the decision making process rather than the merits of the decision, a party who contends that he or she is directly affected by the proceedings ought to bring himself or herself within the ambit of the judicial review jurisdiction and ought not to apply to be joined thereto with a view to transforming judicial review proceedings into ordinary civil litigation. In my view, for a party to be joined to the proceedings under Order 53 rule 3(2) aforesaid the applicant ought to disclose to the Court how he or she is directly affected. The Court cannot be expected to act in the dark by joining such a person with a view to satisfying itself as to the effect of the orders sought on the applicant at a later stage of the proceedings.

26. However, the decision whether or not to join a party is an exercise of discretion and if no substantial purpose or benefit will be gained by the joinder of a person to the proceedings and where the said joinder will militate against the expeditious disposal of the said proceedings which by their nature ought to be heard and determined speedily, the Court will be reluctant to join the intended party to the proceedings.

27. In an application of this nature, the applicant ought to adduce some material upon which the Court can determine whether the applicant is directly affected by the proceedings. In judicial review especially where a party’s interests can be catered for by another party participating in the proceedings, there would be no reason to join the party intending to join the proceedings as a party thereto. It is therefore upon the applicant to satisfy the Court that the issues it intends to raise, which issues are relevant to the matter for determination before the Court, cannot adequately be canvassed by any of the parties before the Court.”

22. In addition, the Supreme Court of Kenya has on several occasions ruled on the threshold required to be met by a party seeking joinder as an interested party, The Supreme Court defined an interested party in the case of Trusted Society of Human Rights Alliance v Mumo Matemo & 5 Others [2014] eKLR, as follows:

“[18] Consequently, an interested party is one who has a stake in the proceedings, though he or she was not party to the cause ab initio. He or she is one who will be affected by the decision of the Court when it is made, either way. Such a person feels that his or her interest will not be well articulated unless he himself or she herself appears in the proceedings, and champions his or her cause.”

23. The considerations before a court admits a proposed interested Party were elaborated on by the Supreme Court in the case of Francis Kariuki Muruatetu and Another vs Republic, Petition No 15 of 2016 as follows:

“From the foregoing legal provisions, and from the case law, the following elements emerge as applicable where a party seeks to be enjoined in proceedings as an interested party:

One must move the Court by way of a formal application. Enjoinment is not as of right, but is at the discretion of the Court; hence, sufficient grounds must be laid before the Court, on the basis of the following elements:

i. The personal interest or stake that the party has in the matter must be set out in the application. The interest must be clearly identifiable and must be proximate enough, to stand apart from anything that is merely peripheral.

ii. The prejudice to be suffered by the intended interested party in case of non-joinder must also be demonstrated to the satisfaction of the Court. It must also be clearly outlined and not something remote.

iii. Lastly, a party must, in its application, set out the case and/or submissions it intends to make before the Court, and demonstrate the relevance of those submissions. It should also demonstrate that these submissions are not merely a replication of what the other parties will be making before the Court.”

24. The above considerations were reiterated by the Supreme Court in Communications Commissions of Kenya & 4 Others vs Royal Media Service & 7 Others, (2014) eKLR and H.E. Raila Amolo Odinga & Another vs IEBC & 3 Others (2017) eKLR.

25. It is evident from the foregoing decisions that the penultimate consideration in joining an interested party to proceedings is a proven stake of, and prejudice that may be suffered by, the Interested Party, with the aim of assisting the Court determine the dispute effectually. A person is thus directly affected or legally interested in the proceedings if the suit will lead to a result that will affect him by either establishing or curtailing his or her legal rights. Therefore, the joinder of an interested party can only be of utility before a Court delivers judgment or ruling, unless the joinder is for purposes of setting aside or varying a prejudicial judgment or ruling.

26. It was in this regard held by the Court of Appeal in JMK v MWW & Another [2015] e KLR as follows:

“Order 1 Rule (10) (2) of the Civil Procedure Rules empowers the court, at any stage of the proceedings, upon application by either party or *suo motu*, to order the name of a person who ought to have been joined or whose presence before the court is necessary to enable the court effectually and completely adjudicate upon and settle all questions involved in the suit, to be added as a party. Commenting on this provision, the learned authors of *Sarkar’s Code of Civil Procedure* (11<sup>th</sup> Ed. Reprint, 2011, Vol. 1 P. 887), state that:

**“The section should be interpreted liberally and widely and should not be restricted merely to the parties involved in the suit, but all persons necessary for a complete adjudication should be made parties.”**

This Court adopted the same approach in *CENTRAL KENYA LTD. V. TRUST BANK & 4 OTHERS*, CA NO. 222 OF 1998, when it affirmed that the guiding principle in amendment of pleadings and joinder of parties is that:

**“all amendments should be freely allowed and at any stage of the proceedings, provided that the amendment or joinder as the case may be, will not result in prejudice or injustice to the other party which cannot properly be compensated for in costs.”**

We would however agree with the respondent that Order 1 Rule (10)(2) contemplates an application for amendment or joinder of parties where proceedings are still pending before the Court. *Sarkar’s Code*, (supra) quoting as authority, decisions of Indian Courts on the provision, expresses the view that an application for joinder of parties can be filed only in pending proceedings. In the same vein, the Court of Appeal of Tanzania, while considering the equivalent of Order 1 Rule 10(2) of our Civil Procedure Rules, in *TANG GAS DISTRIBUTORS LTD V. SAID & OTHERS* [2014] EA 448, stated that the power of the court to add a party to proceedings can be exercised at any stage of the proceedings; that a party can be joined even without applying; that the joinder may be done either before, or during the trial; that it can be done even after judgment where damages are yet to be assessed; that it is only when a suit or proceeding has been finally disposed of and there is nothing more to be done that the rule becomes inapplicable; and that a party can even be added at the appellate stage.

**It is not in dispute at all that when the appellant applied to be made a party to the proceedings on 10<sup>th</sup> June 2014, there were no pending proceedings before the Industrial Court to which he could have been made a party, the judgment having been delivered on 30<sup>th</sup> May 2014.”**

27. It is to be noted that in *JMK v MWW & another* despite holding that an application for joinder can only be filed in pending proceedings, the Court of Appeal held that the prayer for review that had been made alongside the application for joinder was properly considered by the trial Judge. Coming to the applications for joinder in the instant applications, this Court has already delivered judgment both in the main suit that gave rise to the judicial review proceedings for mandamus herein, as well as in the present proceedings. It is therefore not evident what added value the joinder of the Intended Interested Parties will bring, as there is nothing more to be decided in this case. It would also appear that the only reason the Intended Interested Parties seek to be joined herein is to seek for the disqualification of the law firm of Coulson Harney LLP and the return of the firm of Njiru Boniface & Co Advocates to represent the *ex parte* Applicant, which interest this Court will address later on in this ruling.

28. Secondly, the main interest alleged by the Intended Interested Parties is their rights to dividends under the Share and Sale Subscription Agreement dated 31<sup>st</sup> October, 2014 entered into between *inter alia* the *ex parte* Applicant and the certain shareholders of the *ex parte* Applicant who are represented by the Intended Interested Parties. It is not disputed that this right to dividends will mature after there has been successful and complete execution of the judgment herein, which is the appropriate time that the Intended Interested Parties can pursue the *ex parte* Applicant and not the Respondents for the said dividends. The Intended Interested Parties’ alleged interest in the execution proceedings on account of their dividends are therefore not only misplaced, but it is also in their best interests that the execution proceedings proceed without further delay so that they can reap the benefits therefrom.

29. It is in this context that I would also like to make a finding on the arguments made by the Intended Interested Party as regards the conflict of interest on the part of the law firm of Coulson Harney LLP to justify their joinder. Rule 9 of the Advocates (Practice) Rules made under the Advocates Act, Cap 16 provides as follows in this regard:-

**”No advocate may appear as such before any court or tribunal in any matter in which he has reason to believe that he may be required as a witness to give evidence, whether verbally or by declaration or affidavit, and if, while appearing in any matter, it becomes apparent that he will be required as a witness to give evidence whether verbally or by declaration or affidavit, he shall not continue to appear.”**

30. In addition, in the case of *Charles Gitonga Kariuki v Akuisi Farmers Co. Ltd* [2007] e KLR the court stated as follows regarding the issue of conflict of interest;

**“It is trite law that an advocate cannot act for and against a client in a suit or in subsequent suits where he could utilize the information that he acquired in the cause of his work as an advocate to the detriment of that client. In *Uhuru Highway Development Ltd –vs- Central Bank of Kenya* [2002] 2 E. A 654 at pg 661, the Court of Appeal held that an advocate would not be allowed to act against a client where he could consciously or unconsciously or even inadvertently use the confidential information acquired when he acted for such a client to his detriment. The court held, that where it was established that such a client would suffer prejudice then the court would have no alternative but to order that such an advocate ceases to act for the opposing party. An applicant who is seeking the disqualification of an advocate from acting for the opposing party in the circumstances contemplated above, must establish the existence of such advocate relationship that could lead to such an advocate to be in possession of confidential information which he could use to the detriment of the client seeking the disqualification of an advocate.”**

31. The Intended Interested Partied in this respect did not bring any evidence of any suit between them and the *ex parte* Applicant where the Share, Sale and Subscriptions Agreement between certain shareholders and the *ex parte* Applicant which was drafted by law firm of Coulson Harney LLP is in issue, or any advocate/ client relationship between the Intended Interested Parties in their capacity as shareholders of the *ex parte* Applicant and the law firm of Coulson Harney LLP, that may lead to a possible conflict of interest. Therefore, their interest in the present proceedings on this ground has not been proven and is purely speculative.

**The Disposition**

32. This Court therefore finds that the Intended Interested Parties have not demonstrated a justifiable stake to be joined in the present proceedings, and I accordingly order as follows

**I. The Intended Interested Parties' Notice of Motion application dated 24<sup>th</sup> May 2019 is hereby dismissed with costs to the *ex parte* Applicant.**

**II. The Deputy Registrar of the Judicial Review Division shall send a copy of these directions to the *ex parte* Applicant and Respondent and Intended Interested Parties by electronic mail by close of business on Thursday, 15<sup>th</sup> April 2021.**

**III. The Deputy Registrar of the Judicial Review Division shall put this matter on the Division's causelist for mention on 24<sup>th</sup> May 2021 of the *ex parte* Applicant's Notice of Motion dated 17<sup>th</sup> December 2019.**

**IV. Parties shall be at liberty to apply.**

33. Orders accordingly.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 9<sup>TH</sup> DAY OF APRIL 2021**

**P. NYAMWEYA**

**JUDGE**

**FURTHER ORDERS ON THE MODE OF DELIVERY OF THIS RULING**

**In light of the declaration of measures restricting Court operations due to the COVID -19 Pandemic, and following the Practice Directions issued by the Honourable Chief Justice dated 17th March 2020 and published in the Kenya Gazette on 17th April 2020 as Kenya Gazette Notice No. 3137, this Ruling will be delivered electronically by transmission to the email addresses of the *ex parte* Applicant's, Respondent's and Intended Interested Parties' Advocates on record.**

**P. NYAMWEYA**

**JUDGE**