



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CONSTITUTIONAL AND HUMAN RIGHTS DIVISION

PETITION NUMBER E005 OF 2021

OKIYO OMTATAH OKOITI.....1ST PETITIONER
HABIB OMARI KONGO.....2ND PETITIONER
PATRICK MWANGI KIIRU.....3RD PETITIONER
JOSPHAT KARIUKI.....4TH PETITIONER
ANGELA MWIKALI.....5TH PETITIONER
MUIRURU WAWERU.....6TH PETITIONER
THIRDWAY ALLIANCE KENYA.....7TH PETITIONER
LAW SOCIETY OF KENYA.....8TH PETITIONER
KENYA HUMAN RIGHTS COMMISSION.....9TH PETITIONER
GEOFFREY MAKWORO.....10TH PETITIONER

VERSUS

ANNE KANANU MWENDA.....1ST RESPONDENT
NAIROBI CITY COUNTY ASSEMBLY.....2ND RESPONDENT
THE SPEAKER, NAIROBI CITY COUNTY ASSEMBLY..3RD RESPONDENT
THE CLERK, NAIROBI CITY COUNTY ASSEMBLY.....4TH RESPONDENT
THE ATTORNEY GENERAL.....5TH RESPONDENT
INDEPENDENT ELECTORAL AND
BOUNDARIES COMMISSION.....6TH RESPONDENT
THE GOVERNMENT PRINTER.....7TH RESPONDENT

AND

HON. MIKE MBUVI SONKO KIOKO GEDION....1ST INTERESTED PARTY
THE SENATE.....2ND INTERESTED PARTY

KATIBA INSTITUTE.....	3 RD INTERESTED PARTY
POLYCARP IGATHE.....	4 TH INTERESTED PARTY
JUBILEE PARTY.....	5 TH INTERESTED PARTY
NAIROBI CITY COUNTY EXECUTIVE.....	6 TH INTERESTED PARTY
KRISTINA PRATT KENYATTA.....	7 TH INTERESTED PARTY
JANE WERU.....	8 TH INTERESTED PARTY
UNITED DEMOCRATIC MOVEMENT PARTY.....	9 TH INTERESTED PARTY
ISAAC CHEGE NJUGUNA.....	10 TH INTERESTED PARTY

R U L I N G

After going through the parties respective positions regarding the filing of submissions, it is apparent that some Petitioners did not comply with the directions issued by the court on 18th March, 2021 and filed their submissions outside the agreed timelines.

We also note that the Respondents proceeded to file submissions without having the benefit of being served with the Petitioner’s submissions.

For the above reasons we find that it will serve the interest of justice to accord the Respondents an opportunity to respond to the Petitioners’ submissions by way of supplementary submissions.

Consequently, we grant leave to the Respondents and Interested Parties who support the Respondents’ case, 3 days to file and serve supplementary submissions, in any event on or before 11th May, 2021.

We grant corresponding leave to Petitioners and any Interested Parties who support their case, 3 days within which to file further submissions, in any event on or before 14th May, 2021.

Turning to the issue raised by Muite S.C, Mr. Nyamodi, Mr. Okatch and other counsels for the Respondent regarding the framing of issues and prayers in the consolidated petition, we note that on 18th March, 2021 one of the directions issued was “***parties are at liberty to frame their considered issues in their written submissions.***”

We have also noted that apart from Mr. Ashioya for 4th Respondent, all the other parties have filed their submissions which deal with the issues that they deem pertinent to the petition.

At the end of the day, this court will consider all the issues highlighted in the submissions at the petitions and will address them appropriately.

On the issue of identification of the prayers, in the consolidated petition, we find that the court will consider the petitions and if merited will grant appropriate prayers. In the circumstances, we find that there will be no need identify the prayers at this stage. On the issue raised by Muite S.C. regarding the allegation that the Petition No. E012 of 2021 is not opposed and ought to be allowed as prayed. We find that a constitutional petition is not equivalent to a claim for a liquidated amount for which judgment is automatically recorded where no defence has been filed.

In any event, Mr. H. Kinyanjui, counsel for the 1st Interested Party indicated they had specifically responded to Petition No. E012 of 2021. For this reason, we find that the claim that the petition is not opposed is unfounded. We, therefore, direct Mr. Kinyanjui to serve the 1st Respondent/Cross-Petitioner with the response and submissions before Close of Business today.

Hearing on 19th May, 2020 at 10.00 a.m.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 5TH DAY OF MAY, 2021

S J CHITEMBWE	W KORIR	W OKWANY
JUDGE	JUDGE	JUDGE
5/5/2021	5/5/2021	5/5/2021