REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MOMBASA

CONSTITUTIONAL AND HUMAN RIGHTS DIVISION

CONSTITUTIONAL REFERENCE NUMBER 51 OF 2011

BETWEEN:

MUSLIMS FOR HUMAN RIGHTS (MUHURI) ..... PETITIONER

and

MUNICIPAL COUNCIL OF MOMBASA .....1ST RESPONDENT

KAPS MUNICIPAL PARKING LIMITED .....2ND RESPONDENT

R U L I N G

Background

1. This is a Constitutional Reference filed in 2011. The Petitioner is an organization called Muslims for Human Rights (MUHURI) is a non-profit non-partisan organization established in Kenya in 1997. It has been described thus: "*MUHURI is a civil society organization (CSO) based in the coastal region of Kenya that has been involved in promoting good governance and respect for the human rights of marginalized groups since 1997. MUHURI seeks to enhance the capacity of the coastal communities to hold state and non-state actors accountable for human rights violations; increase public participation in the political, social, and economic development of the coastal communities; and progressively mainstream a gender perspective into the policies, institutions, and practices of the communities…...*".

2. The Petition/Constitutional Reference has had a chequered history with various applications for stay and/or striking out and/or dismissal made by the Second Respondent in the main. Along its history the file disappeared and then re-appeared in the Registry. In the meantime the two Respondents were involved in their own disputes and litigation which suits were filed in Nairobi (the home court of the Plaintiff and not the Defendant). Prior to the events of September 2019, the most recent event and/or perceptible outcome was the Ruling of Hon Mr Justice Murithii delivered on 19th February 2018. "Before the Originating Notice of Motion.. could be heard and determined, the 2nd respondent filed an application by Chamber Summons dated 10th August 2012 under Section ***6(1) of the Arbitration Act, 1995*** and ***Rules 2 and 8*** of the ***Arbitration Rules 1997*** seeking the following reliefs:

> a) There be a stay of the proceedings filed herein including the Originating Notice of Motion dated 16th August 2011 pending hearing and determination of the ongoing arbitration between the 1st and 2nd respondent.
>
> b) In the alternative to the above prayer the Originating Notice of Motion dated 16th August 2011 be struck out for being scandalous, vexation, frivolous and an abuse of the process of the court.
>
> c) Costs of the application.

In his Ruling delivered on 19th February 2018, the Learned Judge dismissed the Application with costs. From the Record it appears that the next step the Parties took was that the Advocate for the Petitioner invited the Respondents to fix a mutually convenient date for highlighting of their submissions. Thereafter it seems the matter stalled. In September 2019, it was marked an appropriate matter for Service Week 2019. Notices were said to have been sent out by the Court Registry. There were no copies on the File. The Matter came before this Court on 9th September 2019.

3. The Petitioner's started the proceedings by filing an Origination Notice of Motion filed on 19th August 2011sought the following Orders:

> *1) The court to declare that the involvement of the 2nd respondent in the affairs of the 1st respondent in general and in particular collection of revenues from the parking services within the municipality violates the Constitution of Kenya*

2) The 2nd respondent be ordered to cease from collecting revenues originating from the parking services within the municipality;

3) The 2nd respondent be ordered to produce an account of all revenues originating from parking services from the year 2006 to date.

4) The court to declare that the agreement entered into between the respondents herein awarding the 2nd respondent the right to collect revenues from parking services unconstitutional and thus null and void. Further that the agreement signed between the respondents on or about 28th June 2006 exceeds the statutory provisions contained in the Local Government Act

5) Cost of the application to be borne by the respondents.

4. Running alongside this Reference was a slew of additional litigation dealing including the same parties and an additional company known as KAPS Municipal Parking Services Ltd. The 2nd Respondent herein was the 1st Plaintiff in ***Civil Case 434 of 2009*** which was filed in Nairobi. An application for transfer of the Suit to Mombasa High Court was dismissed on 8th July 2009 by Hon Lady Justice Joyce Khaminwa. In Mombasa High Court there was Petition No 40 of 2014 and HCCC 37 of 2014. In addition, there was ***Civil Case No 31*** in Nairobi which was heard by Hon Mr Justice Kimaru where he declined to make orders for committal for contempt. Subsequently, ***HCCC 434*** was stayed by Hon Mr Justice Ochieng in his 2015 Ruling, to allow the First and Second Respondent in this suit to resolve their dispute through arbitration. What is clear is that two Respondents entered into a contract for the provision of services for the management and collection of parking fee. The Contract was said to have been entered into 28th June 2006 between the two Respondents with the former Mayor and Town Clerk of the council acting for the Council. Later, the Council denied the existence of a contract or a valid contract but both Parties to the Contract continued to rely on some of its terms. For example, the Municipal Council argued for a stay to permit arbitration yet at the same time interrupted the operations of the Second Respondent and its agents by seizing their property, equipment and receipt books. At that time they gave their enterprise the grandiose title of public private partnership.

5. While the two Respondents were engaged in endless litigation, the Petitioner a Human Rights Civil Society Organisation filed a Constitutional Reference challenging the underlying contract and seeking an account of the revenue collected as well as an account of how it was allocated and/or spent.

6. When the Matter came before the Court on 9th September 2019, the Petitioner did not attend whether by officer or legal representative. The First Respondent was represented by Mr Paul Buti who attended in the morning but not at the time the matter was allocated for Hearing. He told the Court that the matter commenced before Hon Mureithi J and the Parties had filed submissions. Shortly before Hon Justice Mureithi was transferred an Application for stay pending arbitration was made by the Second Respondent. In relation to that, Counsel then told the Court that he "***heard a Ruling was delivered and I do not know anything about that***". In fact, the Ruling is on the file. Mr Buti also submitted that the Court could not proceed because the Second Respondent filed ***HCC 37 of 2014*** in the Mombasa High Court seeking various injunctions. When the injunctions were refused they then filed ***HCC 331 of 2014*** in the Commercial Division in Nairobi seeking the same injunctions. ***HCC 37*** and ***HCC 331 of 2014*** were consolidated and heard by Hon Ochieng J. Mr Buti said he did full submissions but the outcome was not communicated to him. He also told the Court he came to the Court for a hearing but "I don't know what happened why is it for hearing?". He then went on to show the Court a Letter from Messrs Sherman Nyongesa & Mutabia dated 5th September 2019 and received on 6th September 2019, informing them that the matter was coming up for hearing. Strangely, he did extrapolate from that Letter that there was a Hearing of the suit. The Second Respondent's representatives were not copied into that Letter but they attended. The Notice of Hearing Issued by the Deputy Registrar Mombasa was addressed to the Advocates of both Respondents as well as the Advocate for the Petitioner. It is clear that it was issued on 19th August 2019 and collected by the Representatives of the Advocates for the Applicant and the Second Respondent on 28th and 26th August respectively. Mr Buti was informed of the Hearing by a Letter from Messsrs Sherman Nyongesa.

7. However, the First Respondent's position was that the Court could not proceed. The Second Respondent's position was that the matter was definitively listed for Hearing. The Petitioner was not present. The Second Respondent was represented and ready to proceed. The Second Respondent was seeking an order to dismiss the "constitutional reference" with costs. Notwithstanding that the parties confirmed they had filed submissions, none was able to identify their list of issues. Mr Mugambi on behalf of the 2nd Respondent submitted that the issue is a"contract between the 1st and 2nd Respondent to collect parking fees pursuant to a tender". Muhuri's interest is to see there is a check on Local government to see that Public Funds are not misappropriated. The Court gave the Parties a time allocation of 11:00. There was no appearance by the Petitioner. Mr Buti did not attend but a Ms Kiti was holding his Brief. Mr Mughambi told the Court, he did not know what was happening. He was similarly unable to tell the Court what was the position in the other suits going on in Nairobi, not even if they had been resolved.

8. Having reached an impasse the Court made the following Order:

"*1. UPON the Court being satisfied that the Petition relates to the issues of:*

(1) Collection of Revenue and

(2) The Application of Revenue collected for the purposes for which it is intended.

IT IS ORDERED & DIRECTED that:

(1) The Second Respondent through its Chief Executive Officer shall within 28 days file an Affidavit setting out the following details:

(a) The Total Revenue Collected from the Parking at Moi International Airport from 28th June 2006 to date

(b) Details and amounts paid to the First Respondent from 28th June 2006 to date.

(c) Details of Revenue and Profit declared to Kenya Revenue Authority for each tax year from 28th June 2006 to date

For the avoidance of doubt all records and documents prepared and/or relied upon for those details shall be exhibited to said affidavit.

(2) The First Respondent through its Chief Executive Officer shall file an Affidavit setting out all the revenue received from the Second Respondent in relation to Moi International Airport from 28th June 2006 to date together with supporting documents within 28 days

(3) Penal Notice attached to (1) and (2)

(4) Costs Reserved

(5) A-G's Chambers to serve Orders on Parties and KRA

Order 2

1. List for Mention 3rd October 2019.".

Counsel for the 2nd Respondent did not object to the Order at that stage. The record shows he said "*Its okay*". In the circumstances, the Second Appellant would have to comply with the order on 8th October 2019, but the Order gave the Parties the opportunity to come back to Court a week earlier for a Mention. Neither parts of the order were complied with.

9. The Second Respondent instead, on 18th September 2019 filed a Notice of Appeal. Proceedings were requested and received. Thereafter, having a change of heart, decided to file an Application (dated 25th October 2019) for the orders to be set aside under the guise of a review. On 25th October 2019, the Second Respondent filed an Application by Notice of Motion under certificate of urgency for orders that:

"*1. This Application be certified as urgent, service thereof be dispensed with in the first instance and be heard ex parte.*

2. Pending the hearing and determination of this application, the execution of the orders issued on 9th September 2019 be stayed.

3. The orders issued on 9th September, 2019 be reviewed and set aside

4. *The costs of this application be provided for.*"

10. The Application was premised on the following Grounds:

a) There is a mistake and error apparent on the face of the record in that the court ordered the applicant's Chief Executive Officer to file an affidavit setting out the total revenue collected from the Parking at Moi International Airport from 28th June 2006 to the date of the order yet the Airport parking is under the management of the Kenya Airports Authority and not the subject of these proceedings.

b) The orders granted by the court had not been applied for by any of the parties in attendance.

c) The court in effect determined prayer 5 of the Originating Notice of Motion dated 16th August 2011 without hearing the parties.

d) The orders are prejudicial to the applicant and adversely affect the fair determination of the reference

e) This Application has been made without unreasonable delay

f) It is in the interests of justice that the prayers sought be granted.

11. The Certificate of Urgency was dealt with by Hon Mr Justice Ogola, Presiding Judge Mombasa and he Ordered a stay of the Order on 29th October 2019. In other words, after the time for compliance had lapsed. The Application is Supported by the Affidavit of Lawrence Odero Madialo. The Second Respondent's Legal Officer. He sets out the history of the matter garnered from the proceedings. It correctly records that Mr Buti stated that he only heard of the Hearing that morning when he saw the letter dated 5th September and received by his firm on 6th September 2019 at around 11 am. The Deponent goes on to state that the Court made orders relating to total revenue collected from Moi International Airport which is not the subject matter of the agreement between the two Respondents. The Agreement was in respect of parking spaces in Mombasa Municipality.

12. At pargraph 6 the Deponent states "*The 2nd Respondent is therefore unable to comply with the orders of the court in this respect*". This notwithstanding, its CEO may be faced with contempt of court proceedings unless these orders are set aside. The Deponent feels that the Order is harsh and that the order determines prayer 5 of the original Petition/reference without hearing the Parties and therefore adversely affects the Second Respondent. Prayer 5 states "***5) Costs of the application to be borne by the respondents."***

13. The Matter came before Mr Justice Ogola on 29th October 2019. Counsel for the Petitioner was not ready to proceed because they were only served the day before. Counsel for the First Respondent Municipality was prepared to concede to a stay pending hearing of the application. The Learned Judge stayed the Order and gave directions for the filing of responses. The Petitioner filed a Notice of Preliminary Objection on 18th November 2019 the Preliminary Objection is brought on the following grounds:

> "1. ***THAT*** *the said Notice of Motion is misconceived and bad in law. Affidavit.*
>
> *2.* ***THAT*** *said Notice of Motion does not meet the threshold to warrant issuance of the orders prayed for"*.

The Advocate for the Municipal Counsel of Mombasa was served on 28th October 2019 but did not file a response. However, after the matter was transferred to Voi for hearing of this Application (only) the said Advocate endorsed on the notice of hearing the following words

> "*3rd March 2020.*
>
> - *I am not opposing (sic) your application*
>
> - *Kindly ask an Advocate to hold my brief and confirm that I support your Notice of Motion of 25th October 2019… (signed and stamped)"*.

14. The Second Respondent/Applicant and the Petitioner/Respondent have filed Written Submissions. The Petitioner's Submissions stretch to 6 pages and usefully attach a list and copy of the authorities relied upon. At paragraph 14 the evidence from the Supporting Affidavit is repeated. The Applicant submits that it is therefore clear and obvious that the orders in issued do not related to the subject matter before the Court. The CEO is said to be unable to comply with the Order. At paragraph 21 states, "*Since none of the parties applied for the orders in question the learned judge had no basis to conjure them up*". Thereby challenging the High Court's jurisdiction to make any order that is not specifically applied for. The Submissions then go on to contradict themselves by relying on the Court of Appeal Authority of ***Olive Mwihaki Mugenda & Anor v Okiya Omtata Okoiti & 4 Others [2016] eKLR*** where the Court said that if a trial court is inclined to grant final orders at the interlocutory stage, this can only be done in exceptional circumstances and the reasons for granting such final orders must be stated. The Submissions, then raise a new complaint (not contained in the Application) that the Court did not give reasons for its order. The Orders are said to be prejudicial to the Applicant and therefore **must be** set aside.

15. The Petitioner/Respondent filed Written Submissions on 22nd January 2020. There too it sets out the facts. It is stated that "*3. The Petitioner herein filed Constitutional Reference seeking orders that the 2nd Respondent be ordered to cease from collecting revenue from parking services within Mombasa municipality, to produce an account of all the revenue collected within the municipality, to produce an account of all the revenue collected within the municipality from parking services from the year 2006 to date and that the Court to declare that the agreement entered between the Respondents awarding the 2nd Respondent the right to collect revenue from parking services as unconstitutional thus null and void among other orders. 4. The Reference was premised on the grounds that on 28th June 2006 the Respondents signed an agreement for the provision of parking services for motor vehicles within the municipality for the period of 15 years with an option to renew to add more years*". The Petitioner's contention was that the 2nd Respondent remits a mere Kshs. 800,000/= per month to the 1st Respondent while in a single day the 2nd Respondent collects between KShs.600,000/= to Kshs.800,000/= and that this situation was an abuse and misuse of public funds. It then goes om, "*5. The matter proceeded with several other applications made and determined when this matter came for hearing on 99th September, 2019, the learned Judge F. Amin after being satisfied that the petition relates to the collection and use of revenue [made the Order the Applicant finds offensive]"*. The Submissions repeat the Order. The Petitioner sets of ***Order 45 Rule 1*** which states that for a Court to review orders there must be such grounds that:

> *a) There is discovery of a new and important matter,*
>
> *b) There is a mistake or error apparent on the face of the record; or*
>
> *c) There is other sufficient reasons; and*
>
> d) *The application has been made without undue delay*.

16. The Petitioners' argument for its Preliminary objection is that the Application is that there is no error on the face of the record. The Petitioner cites the Court of Appeal of ***Nyamongo & Nyamongo –vs- Kogo (2001) EA 174*** where the Court said "… *There is a real distinction between a mere erroneous decision and an error apparent on the face of the record. Where an error on a substantial point of law stares on in the face, and there could reasonable be no two opinions, a clear case of error apparent on the face of the record would be made out. An error which has to be established by long drawn process of reasoning or on points where there may be conceivably be two opinions, can hardly be said to be an error apparent on the face of the record…*". The Petitioner argues that the Applicant/Second Respondent's elaborate labored arguments show that there is no such error because such an error would be self-evident and therefore and therefore the Application does not meet the threshold for review. Further it is argued that the Application is misconceived and bad in law because the Appellant has filed a Notice of Appeal. It is argued that pursuant to ***Section 80*** of the ***Civil Procedure Act*** which provides that a party has the liberty to either ask for a review of orders or file an Appeal but does not state that one has liberty to pursue both. The Court equally should exercise its wide discretion judiciously and not on a whim and capriciously. In ***Suleiman Sumra & Another v Said***

Mohamed Said [2018] eKLR the Court heard that "Both ***Section 80*** and ***Order 45 Rule 1*** are conclusive in terms that a party has the option to choose whether to appeal or seek review. There is no liberty for one to seek both simultaneously, contemporaneously or in a consecutive manner over the same point.

17. In relation to the Applicant's assertion that the CEO of KAPS Ltd is not in a position to comply with orders of the Court is said to be misconceived and being evasive. The Court has asked for the information and it is not a herculean task to accomplish. In Closing the Petitioner Respondent argues that the Court ought to dismiss the Application with costs.

18. It is clear from the above that this Court is presented with an interesting conundrum which requires careful analysis, far removed from the slow motion knee jerk reaction of the Applicant/Second Respondent. The issues require resolution are:

(a) Should the Court Review its Order whether as requested in the Application or at all?

(b) If the Court does decide to review its order pursuant to the Application or its inherent jurisdiction, are there grounds for correcting and/or amending and/or supplementing any parts of the Order whether to aid understanding or otherwise, in the interests of justice?

(c) If so what Order should this Court make?

19. Firstly, was the Application made at the earliest opportunity? The Answer must be an emphatic NO. When the "Offending Order" was made, the Second Respondent was represented by Counsel in Court. Learned Counsel appeared to be able to follow the proceedings. The Orders made were enunciated in open court. At the end said Counsel said "*it is OK*". That was his first opportunity to ask the Court to re-consider its order and/or make any corrections. The next opportunity was again provided by the Court by Listing the Matter for a mention on 3rd October 2019, a full week before the date the Affidavit as ordered was due. Again, no mention was made of mistakes or difficulties or final orders. Instead the Applicant and in particular its Legal Officer waited until it was already in contempt of the Court order before filing its application on 25th October. The delay clearly points at a failed attempt at forum shopping where a different judge is asked to review the order of a colleague notwithstanding the words of ***Section 80*** of the ***Civil Procedure Act Cap 21***. The record shows Hon Mr Justice Ogola felt a Judge should review their own orders as stated in the Section.

20. Therefore, the Applicant brings an application when it is already in contempt of an order and manages to obtain stay of the Order. That raises the question whether a party to litigation who shows no respect for the rule of law should be given audience. In the circumstances of this case that is now a hypothetical question.

21. The Petitioner suggests that filing an appeal was a further act of prevarication. This Court does not agree with that analysis. It is a reality of litigation that when a litigant goes before the Court of Appeal on a question they believe could be the subject of review, minor correction or amendment the inevitable question will be, "Did you ask the Judge". A negative response may count adversely. However, there is the question of the lapse of time. Therefore, this Court does not fault the Applicant for trying to ride both horses, it does fault the Applicant for forum shopping all the while being in contempt of Court.

22. This Court accepts that there is an error on the face of the record. The error is simply human error. In fact, the order should refer to the subject matter of the agreement between the two Respondents. In other words, parking revenue collected in respect of parking within the Municipality of Mombasa from 26 June 2006. The Court has power to correct the Order under the slip rule (See: ***Raniga v Jivraj [1965] EA 700 (K))*** as well as ***Section 99*** of the ***Civil Procedure Act***. It could have been done on 9th September and/or during the fortnight of service week and it can be done now.

23. Moving onto the argument that the CEO of the Applicant is unable to comply with the Order as enunciated. That is simply untrue. The said officer could simply have filed an affidavit containing one sentence, that is; "the revenue collected and/or received is nil because the company was not managing that area." That would have been a quick and straightforward approach rather than the obfuscation involved in this application. It appears from the record that the Order was neither extracted nor served, therefore plaintive cries about committal for contempt bear little weight.

24. Moving onto the argument that the Court had no jurisdiction nor basis to "conjure up an order that no party had asked for". Clearly, the Court sitting has a High Court has wide inherent jurisdiction to make such order as are required in the interests of justice. That is the reason why parties invariably ask for such further and other orders as the Court considers just. There is also the overriding objective and ***Section 3A*** of the ***Civil Procedure Act***

25. The question then arises did the Court make a final order? The Matter was listed for hearing. The Parties had filed Written Submissions and previously agreed a date for Hearing. The Presiding Judge of the Court (Hon Mr Justice Ogola) deemed that this was a file that had sat in the Registry for an inordinately long time creating a backlog and should be completed. The file was therefore to be part of Service Week arranged specifically to clear such backlog. Notices of Hearing were issued and served by collection except for Mr Buti who was told by the Petitioner by letter. However, when the Parties appeared before the Court they presented an interesting picture.

26. As set out in the background this is what used to be called a constitutional reference and is now a constitutional petition. It is clear that it is brought by a Human Rights body seeking accountability as to the use of public revenue collected from public resources namely parking spaces within what was then the Municipality of Mombasa. With that receipt of public funds comes the duty to account. The Applicant/Second Respondent refers to itself entering a "public private partnership". Whether the arrangement was truly such or something else entirely will be determined elsewhere. The Applicant /2nd Respondent did tender for the contract and therefore would have been fully aware of its public nature and the duty to account with transparency. That message appears to have been forgotten along the way as demonstrated above. The Applicant must have understood fully that it was collected public revenue.

27. Meanwhile the two Respondents had a dispute of their own clearly about who should get what share of the revenue which gave rise to seizing of receipt books and applications for injunctions etc. There was arbitration entered into about 10 years ago. However, that private contractual dispute between them has no impact whatsoever on the requirement of transparency and/or accountability. The taxpayer is neither privy to nor party to any deals made as to "profit sharing" or otherwise.

28. Against that background the Court was faced with three Advocates Firms who had been involved in the same litigation for nigh on 10 years. The first representing the tax payer did not bother to attend despite having received a Hearing Notice. The Second, an Advocate of considerable seniority told the Court he did not know what was going on and wanted the Court to believe Hon Mr Justice Ochieng had not delivered a Ruling, when in fact that Ruling had been delivered in 2015 and was published on eKLR . The Learned Judge had ordered a stay pending arbitration in the duplicate litigation taking place in Nairobi. Counsel for the Applicant which was the Party that repeatedly argued for a stay now wanted the Court to dismiss the Petition thereby leaving Wanjiku or her coastal sister high and dry. In the circumstances, the Court made an order which underlies the need for accountability.

29. The Second Applicant's refusal to provide the information is particularly concerning when it is borne in mind that the First Applicant as named ceased to exist with the advent of the County Governments Act, the Transition to Devolved Government Act. The Public Audit Act. The Access to information Act and the Public Finance Management Act) even if there have been no applications for amendment to the Petition to include the words "and successor in title" to the parties. In the circumstances, pursuant to the transitional arrangements in the Transition to Devolved Government Act and subsequent adoption of any contracts and/or assets and/or liabilities by the County Government of Mombasa would have involved a process whereby the information ordered was to be provided to the relevant bodies and in part, if not wholly placed in the public domain. The Applicant/Second Respondent's currently shyness appears incongruous as does the Petitioner's lack of attention on the question of amendment.

30. In summary it is for those reasons, inordinate delay, possible infringement of the tax payers rights, delay, obstructive litigation, mirror litigation in a different court not in the immediate vicinity of the subject matter of the

31. dispute and a supposedly never ending "arbitration", the Court made orders – as required by Service Week – to move the matter along. In the view of this Court that is not a final order, that is simply compliance with the law as now exists where public bodies are required to account with transparency. The Respondents to the Petition must comply with the law as it stands and not benefit from the delays which are largely of their making for example the alleged never ending arbitration.

32. Although the Court has made an order that is similar to prayer 3 (not 5) of the Petition namely; the 2nd respondent be ordered to produce an account of all revenues originating from parking services from the year 2006 to date. A careful reading of the Order will show that the Order is not asking the Respondent "to produce" but to provide that which should **already have been produced elsewhere** in compliance with the transitional and subsequent arrangements.

33. For the reasons set out above, regrettably at some length. The Application is dismissed for costs.

34. However, this Court does, amend its order under the Slip Rule to refer to the subject matter of the 26th June 2006 Agreement, namely parking services in the Municipality of Mombasa prior to August 2012 and within the County of Mombasa thereafter. The reference to the Parking at Moi International Airport is therefore deleted and replaced as aforesaid.

35. Each Party be and is hereby granted leave to appeal if required.

36. Copies of this Ruling to be disseminated by email and thereafter File to be returned to High Court of Kenya at Mombasa.

Order accordingly,

Farah S. M. Amin

JUDGE

Dated: 29th May 2020

Signed and Delivered in Voi this the 2nd day of June 2020

In the Presence of

Court Assistant: Josephat Mavu

Petitioner/Respondent: Ms Naliaka

First Respondent: Mr Titus Mugambe holding brief for Mr Buti

Second Respondent/Applicant: Mr Titus Mugambi