



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MISCELLANEOUS CIVIL APPLICATION NO. 308 OF 2017

IN THE MATTER OF AN APPLICATION FOR JUDICIAL REVIEW

ORDERS OF CERTIORARI, PROHIBITION AND MANDAMUS

AND

IN THE MATTER OF CONSTITUTIONAL RIGHTS PURSUANT TO ARTICLES 2(1), 3(1),

10, 27 (1), 47(1), 38, 50(2) 174, 175, OF THE CONSTITUTION OF KENYA, 2010

AND

**IN THE MATTER OF THE LAW REFORM ACT, SECTION 8 AND 9 CAP 26 LAWS OF
KENYA**

AND

IN THE MATTER OF THE JUBILEE PARTY CONSTITUTION

BETWEEN

REPUBLIC.....APPLICANT

VERSUS

THE JUBILEE PARTY.....1ST RESPONDENT

INDEPENDENT ELECTORAL AND

BOUNDARIES COMMISSION.....2ND RESPONDENT

AND

FAITH WAIRIMU GITAU.....INTERESTED PARTY

EX PARTE: HON. WANJIKU MUHIA

RULING

1. By a Motion on Notice dated 13th June, 2017, the ex parte applicant herein, **Hon. Wanjiku Muhia**,

seeks the following orders:

- 1. THAT the Honourable Court be pleased and do hereby grant Judicial Review Order of CERTIORARI to remove into this Honourable Court and quash the decision of the Jubilee Party to nominate the Interested Party Faith Wairimu Gitau as its nominee for the position of Women Representative Nyandarua County through an illegal process in exclusion of the Applicant.**
- 2. THAT the Honourable Court be pleased and do hereby grant Judicial Review Order of PROHIBITION to remove into this Honourable Court and prohibit the IEBC from clearing and/or publishing and/or gazetting the Interested Party as the Jubilee nominee for the position of Women Representative Nyandarua County.**
- 3. THAT the Honourable Court be pleased and do hereby grant Judicial Review Order of MANDAMUS to remove into this Honourable Court and compel the Jubilee Party to conduct fresh nominations by way of secret ballot/elections for the position of Women Representative Nyandarua County.**
- 4. THAT such further and other reliefs that this honourable court may deem just and expedient to grant.**

2. According to the ex parte applicant, she is the incumbent women representative for Nyandarua County (hereinafter referred to as “the County”). On the 26th day of April 2017 she participated in the nominations exercise for the same position which exercise was marred with electoral malpractices leading to the Applicant filing a Complaint before the National Appeals Tribunal. However the said Complaint was dismissed and the Applicant appealed up to the Court of Appeal.

3. It was averred that on the 8th day of June 2017 the Court of Appeal delivered a judgment in the Applicant’s favour by nullifying the nomination of the Interested Party as the Jubilee’s Party nominee for the position of Nyandarua County women representative position and directed that a fresh nomination process be conducted by the Party within 48 hours according to the party nomination rules from the date thereof.

4. According to the ex parte applicant, Article 11 of the Party’s Constitution only provides for nomination process through consensus, secret ballot or through the Independent Electoral and Boundaries Commission or other democratic methods acceptable to the members under the supervision of the National Elections Board and the County Elections Board. It was however averred that in a purported implementation of the said judgment the Party conducted a fresh nomination exercise through an interview process and to the total exclusion of the Applicant who was not agreeable to the process therein. It was further averred that the Members sitting at that process had shown open bias against the Applicant and it was out right that she was being used to rubber stamp an already pre-determined decision to nominate the Interested Party as the Jubilee’s Women Representative.

5. It was the ex parte applicant’s case that the mode of conducting the nomination adopted by the Party was illegal as the Party’s Constitution under Article 11 does not provide for nomination through interviews. Further the illegal interview therein was conducted in the total absence of the members of the County Elections Board in violation of Article 11 of the Party’s Constitution. More importantly, there were only 3 members of the National Elections Board and therefore there was no quorum capable of passing a resolution to nominate the 1st respondent as the Jubilee’s nominee for Women Representative Nyandarua County in violation of Article 11 of the Party’s Constitution.

6. It was therefore averred that as a result of the illegal interviews the applicant had been denied her constitutional right to participate in the nomination and the political rights of the Nyandarua people under 38 of the Constitution have been infringed. To the applicant, from the history of the continuous bias against the Applicant and in favour of the Interested Party, it is trite that the 1st Respondent be compelled to conduct nominations of the Women Representative of Nyandarua County through secret

ballot/elections in order to get the true will of the Nyandarua County.

7. It was disclosed that the Party had already forwarded the name of the 1st respondent as its nominee for the position of Women Representative Nyandarua County to the IEBC and IEBC was in the process of clearing and gazetting the name of the Interested Party as the Jubilee Nominee for the position of Women Representative Nyandarua County. To the applicant, unless the application is allowed as prayed the people of Nyandarua County are going to be disenfranchised as their political will is going to be trampled upon by the 1st Respondent hence it is in the interest of justice that this application be allowed as prayed.

8. It was submitted on behalf of the applicant that the Party acted illegally and in contravention of its own Article 11 of its Constitution by purporting to conduct nominations through an interview process. Secondly, the Party acted in violation of the Applicant's legitimate expectation and indeed it was unreasonable for the Party to proceed to conduct the interview in her absence when she had been a participant in the nominations therein from 26th April 2017. Thirdly, the Party has abused its powers by continuously showing open bias against the Applicant.

9. In support of its submissions the ex parte applicant relied on **Judicial Review Case 447 of 2014 Republic v National Transport & Safety Authority & 10 others Ex parte James Maina Mugo [2015] eKLR** while citing the case of **Municipal Council of Mombasa vs. Republic & Umoja Consultants Ltd Civil Appeal No. 185 of 2001, Judicial Review Miscellaneous Application 7 of 2016 Fredrick Masaghwe Mukasa v Director of Public Prosecutions & 3 others [2016] eKLR, Judicial Review Case 434 of 2015 Republic v County Government of Kiambu Ex parte Robert Gakuru & another [2016] eKLR, Kuria & 3 Others vs. Attorney General [2002] 2 KLR 69, Re Bivac International SA (Bureau Veritas) [2005] 2 EA 43.**

10. It was the Applicant's submission that the decision to nominate the Interested Party as the Jubilee nominee for the position of Women Representative Nyandarua County was done in an abuse of due process as one, the Applicant was not a participant to the process therein and two that the Jubilee Constitution does not recognize nomination by an interview process. Consequently, this Application ought to be allowed as prayed.

11. It was submitted that the Court ought to quash the decision of the Jubilee Party reached on 9th June 2017 to nominate the Interested Party as the 1st Respondent's nominee for the position of Women Representative Nyandarua County as it was made in violation of Article 11 of the Jubilee Party Constitution. According to the ex parte applicant, Article 11 of the Jubilee Constitution provides that:

“the party shall conduct open, free, fair and transparent nominations in national and county election through consensus, secret ballot or through the Independent Electoral and Boundaries Commission (IEBC) or other democratic method acceptable to the members under the supervision of the National Elections Board and the County Elections Board.”

12. It was submitted that there is no provision for nominations by interviews in so far as Article 11 of the Jubilee Party Constitution is concerned. Therefore in so far as the Jubilee Party purported to conduct nominations through an interview process, it violated her rights and the rights of the people of Nyandarua Country under Article 38 of the Constitution to nominate their women representative. Further Article 11 provides that the nominations are to be conducted under the supervision of both the NEB and the members of the County Election Board. From the Minutes of the meeting held on 9th June 2017, it is crystal clear that there was no single member of the County Elections Board who was present when that decision was being made. Consequently, the decision therein was made in outright violation of the Party Rules and ought to be quashed.

13. It was submitted that since Article 11 of the Jubilee Constitution provides for ‘**any other democratic method acceptable to the members**’, it goes without saying that if the 1st Respondent was to adopt any other method then it ought to be acceptable to the members, the Applicant included. The Party could not compel the Applicant to have the interview process be acceptable to her when the party had from the

outset treated her unfairly.

14. It was submitted that Jubilee Party is a national outfit and the Court must step in when it is seen to be acting in contravention of its own rules and against public interest and in this regard the applicant relied on **Petition 240 of 2017 Charles Otieno Opiyo & 3 Others vs. Orange Democratic Movement Party & another [2017] eKLR** in which this Court stated that the courts can interfere with political parties' decisions if the political parties are acting in contravention of their own rules and against public interest.

15. To the applicant, the decision dated 9th June 2017 violated her legitimate expectation to participate in the nominations process as the decision was made without her participation.

16. It was submitted that by its judgment dated 8th June 2017, the Court of Appeal instructed the Party to conduct fresh nominations. Since the Applicant was the beneficiary of the judgment therein, she had legitimate expectation that she would participate in any nomination process that would be conducted by the Party in so far as the implementation of the judgment dated 8th June 2017 was concerned. However, in violation of her legitimate expectation, the Party proceeded to purport to conduct fresh nominations without her involvement.

17. According to **Prof. Ojienda**, learned counsel for the applicant whereas section 40(1) of the **Political Parties Act** provides for a mode of dealing with disputes between a member and a political party, where a party is directed by a Court of law to undertake a specific duty such a party is under obligation to comply.

18. It was therefore submitted that the Applicant had established a clear case for the quashing of the decision dated 9th June 2017. Consequently, this Application ought to be allowed as prayed.

Respondent's Case

19. In opposition to the application the 1st Respondent averred that this Court does not have the jurisdiction to hear this dispute by virtue of section 40 of the **Political Parties Act**.

20. It was the Party's case that it complied with the Court of Appeal's judgement which directed it to nominate the Women Representative for Nyandarua County according to its Party Constitution and Rules, 2016. It was contended that due to the timelines (within 2 days) that the Court of Appeal had given, it was not possible to conduct another election but was forced to resort to the other available means for nomination of candidates provided for in its constitution and rules. In this respect the Commission relied on clause XV(i) of the Party's Rules which provides that:

The party shall, in areas of special interest, where nominations cannot be conducted, issue direct nomination certificate to such candidate or where there are more than one aspirants, by consensus or any other appropriate means agreed select among them to be nominated.

21. It was averred that the Party invited all aspirants for a meeting for purposes of building a consensus and all the aspirants agreed to support the interested party as the party candidate apart from the Appellant. By virtue of the foregoing, the Party resorted to conducting interviews, as a result of the foregoing, the ex parte applicant decided to walk away. Accordingly, the Party had no option but to comply with the order of the Court of Appeal by nominating the Interested Party as its candidate for Nyandarua Women Representative position.

22. It was submitted on behalf of the Party by its learned counsel **Mr Macharia** that section 40 of the **Political Parties Act** deals with nomination disputes between a party member and party organs. Therefore the Court was urged to examine the process availed to the parties. It was submitted that since in this case all the candidates were sponsored by Jubilee Party this was a special interest case as contemplated under Article 11 of the Party's Constitution hence the Party could opt for direct nomination more so as the circumstances necessitated such mode of nomination.

23. On the part of the Interested Party, **Mr Karanja** also opposed the application and contended that since the earlier nomination had been nullified by the Court of Appeal, it meant that the process was to start from the scratch and therefore if the applicant felt aggrieved she ought to have approached the Political Parties Disputes Tribunal.

24. It was submitted that you do not enforce a Court order by way of judicial review. To learned counsel there was no excess of jurisdiction and the decision was not irrational since the aspirants agreed to abide by the decision of the National Elections Board.

25. The Court was therefore urged to dismiss the application.

Determinations

26. Having considered the issues raised in the instant application, this is the view I form of the matter.

27. In this application one of the orders which the applicant seeks is an order of judicial review in the nature of *mandamus* to remove into this Honourable Court and compel the Jubilee Party to conduct fresh nominations by way of secret ballot/elections for the position of Women Representative Nyandarua County. It is however clear that the said order is being sought based on the judgement of the Court of Appeal in Civil Appeal No 143 of 2017 in which the Court *inter alia* directed the Jubilee Party to conduct a fresh nomination exercise for the Women Representative, Nyandarua County, in accordance with the Party's Constitution and the Jubilee Party Nomination Rules, 2016, within two (2) days from the date of the decision.

28. That decision was given on 8th June, 2017 and it is clear that the period prescribed for conducting fresh nomination exercise has long lapsed. The effect of issuing the order of *mandamus* would be that this Court would have varied the order issued by the Court of Appeal. In effect this Court would have extended the period that was prescribed by the said Court. In my view, this Court does not have the jurisdiction to extend the time prescribed by the Court of Appeal. See **Bearing House (1985) Ltd. & 4 Others vs. Reliance Bank Ltd. Civil Application No. Nai. 245 of 2000.**

29. If the Party did not comply with the orders of the Court of Appeal within the time given, before the fresh nomination can be conducted, the said period would have to be extended otherwise any conduct of fresh nominations without enlargement of the period would similarly be a violation of the said order.

30. It follows that this Court has no jurisdiction to issue the order of *mandamus* in the manner sought.

31. In this case it was contended on behalf of the applicant that what is in issue is not a dispute between a member and a political party but disobedience of a Court order. In my view if that is the position the correct procedure would have been to institute contempt of court proceedings in the file in which the contempt was allegedly committed. The procedure was considered in detail by the Court of Appeal in **Christine Wangari Gachege vs. Elizabeth Wanjiru Evans & 11 Others [2014] eKLR** where the Court stated that the application for contempt must be made in the proceedings in which the order was made.

32. It was argued that a violation of a Court order calls for a public law remedy hence does not fall within sections 40 and 41 of the ***Political Parties Act***. In my view, judicial review proceedings are not the proper proceedings through which enforcement of court orders are to be achieved.

33. If the manner in which the Party purported to conduct its nomination gave rise to a new cause of action so as to remove it from the contempt process, then it would necessarily follow that the applicant being a member of the Jubilee Party was aggrieved by the manner in which the party was conducting its nominations. That in my view would bring the matter squarely within the jurisdiction of the Political Parties Disputes Tribunal and the Independent Electoral and Boundaries Commission.

34. Article 88(4)(e) of the Constitution provides:

The Commission is responsible for conducting or supervising referenda and elections to any elective body or office established by this Constitution, and any other elections as prescribed by an Act of Parliament and, in particular, for—

(e) the settlement of electoral disputes, including disputes relating to or arising from nominations but excluding election petitions and disputes subsequent to the declaration of election results;

35. Section 74(1) of the *Elections Act* on the other hand provides:

Pursuant to Article 88(4)(e) of the Constitution, the Commission shall be responsible for the settlement of electoral disputes, including disputes relating to or arising from nominations but excluding election petitions and disputes subsequent to the declaration of election results.

36. Section 40(1) of the *Political Parties Act* provides in part as follows:-

(1) The Tribunal shall determine—

(a) disputes between the members of a political party;

(b) disputes between a member of a political party and a political party;

(c) disputes between political parties;

(d) disputes between an independent candidate and a political party;

(e) disputes between coalition partners; and

(f) appeals from decisions of the Registrar under this Act.

37. Since Article 88(4)(e) employs the phrase “*the settlement of electoral disputes, including disputes relating to or arising from nominations*”, it is my view that that power is wide and is not restricted to nomination disputes but includes them and this was the position adopted by a 5-judge bench of this Court in **International Centre for Policy and Conflict & Others vs. The Hon. Attorney-General & Others** **Petition 552 of 2012 as consolidated with Petitions 554, 573 and 579 of 2012 [2013] eKLR** where the Court held as hereunder:

“The Petitioners urge that this is not a dispute on the nomination of the 3rd, 4th and 5th Respondents, but rather, their non-compliance with Chapter Six of the Constitution. We have also taken into consideration the arguments set out by the Respondents with regard to jurisdiction of other statutory bodies in a matter such as this. All the parties in this petition acknowledge the High Court’s unlimited jurisdiction under Article 165(3)(a) of the Constitution. This unlimited original jurisdiction however, cannot be invoked where Parliament has specifically and expressly prescribed procedures for handling grievances raised by the petitioners. See *Speaker of National Assembly v Njenga Karume [2008] 1 KLR 425*, which held that:-

“In our view there is considerable merit.....that where there is clear procedure for the redress of any particular grievance prescribed by the Constitution or an Act of Parliament, that procedure should be strictly followed.”

Even if it was to be argued that the 3rd, 4th and 5th Respondents do not meet the integrity and leadership qualification as spelt out under Article 99 (2) (h) and Chapter Six of the Constitution, then the institution with the Constitutional and statutory recognition would be the IEBC under Article 88(4)(e) of the Constitution and Section 74 (1) of the Elections Act and Section 4(e) of the IEBC Act. This then divests the court of its original jurisdiction and

places an exclusive mandate on IEBC.”

38. It is therefore my view that the subject matter of this petition, if it did not exclusively fall within the Court of Appeal’s contempt jurisdiction was not beyond the jurisdiction of the Commission pursuant to Article 88(4)(e) of the Constitution as read with section 74 of the *Elections Act*.

39. With respect to the *Political Parties Act*, its preamble loudly proclaims it as “AN ACT of Parliament to provide for the registration, regulation and funding of political parties, and for connected purposes.”

40. As this Court appreciated in Republic vs. Political Parties Tribunal & 2 Others ex parte Susan Kihika and 2 Others [2015] eKLR:

“...the intention of enacting the Act was to provide a mechanism with which disputes arising between members of political parties or between political parties or between coalitions can be expeditiously resolved taking into account the need to respect the internal party governance and to resolve the same in a specialised Tribunal without the necessity of subjecting them to the time consuming process of litigation. Political issues, it is usually prudent that they as much as possible be sorted outside the arena of the Courts due to their inherent nature. Therefore Parliament in its wisdom decided that such disputes be in the first instance resolved within the party itself and if for any reason such a resolution cannot be found at that level by the Political Parties Tribunal and only thereafter may the parties approach the Court.”

41. This spirit was correctly captured by Mumbi Ngugi, J in Stephen Asura Ochieng & 2 Others vs. ODM & 2 Others [2011] eKLR when the learned Judge expressed herself as follows:

“The question that arises is this: can it be properly argued that a dispute cannot be referred for determination to the Political Parties Tribunal because the political party has failed or refused to activate the internal party dispute resolution mechanism, thus leaving an aggrieved party with no option but to turn to the High Court for redress? I think not. To hold otherwise would mean that parties could, by failing to resolve disputes internally, frustrate the operations of the Tribunal and render it totally redundant. [12] To my mind, the intention behind the establishment of the Political Parties Tribunal was to create a specialised body for the resolution of inter party and intra party disputes. The creation of the Tribunal was in line with the provisions of Article 159 of the Constitution which provides for the exercise of judicial power by courts and tribunals established under the constitution and for the use of alternative dispute resolution mechanisms. Further, a major concern in the administration of justice in Kenya has been the extent to which the courts have been unable to deal expeditiously with matters before them. A situation in which disputes between members of political parties amongst themselves or with their parties wind up in the Constitutional division of the High Court would clearly be prejudicial to the expeditious disposal of cases. [13] To my mind, the provisions of Section 40 (2) of the Political Parties Act must be interpreted as permitting aggrieved members of a political party to bring their grievance before the Political Parties Tribunal where the political party has neglected or refused to activate the internal party dispute resolution mechanism. The section must be read as contemplating assumption of jurisdiction by the Tribunal where the internal party mechanism has failed to hear and determine a dispute. Indeed, I do not believe that this court has jurisdiction to entertain this Petition at all in view of the nature of the petitioners’ grievance and the parties involved.”

42. Whereas this Court has held in R vs. The Chairman, Political Parties Disputes Tribunal & Others ex parte Susan Kihika Wakarura Misc. Application No. 305 of 2017 that the said Tribunal has no jurisdiction to interpret the Constitution, the Court did appreciate that in matters falling within its jurisdiction it has the power to apply the same. In this case, it is my view that what is in issue is the application of known constitutional principles as opposed to interpreting the Constitution.

43. As this Court has held time and again, the Court ought to adopt an interpretation that favours the spirit of the Act rather than one which renders statutes stillborn or ineffective. As was held in **Diana Kethi Kilonzo & Another vs. Independent Electoral & Boundaries Commission & 2 Others, Constitutional Petition No. 359 of 2013**:

“We note that the Constitution allocated certain powers and functions to various bodies and tribunals. It is important that these bodies and tribunals should be given leeway to discharge the mandate bestowed upon them by the Constitution so long as they comply with the Constitution and national legislation. These bodies and institutions should be allowed to grow. The people of Kenya, in passing the Constitution, found it fit that the powers of decision-making be shared by different bodies. The decision of Kenyans must be respected, guarded and enforced. The courts should not cross over to areas which Kenyans specifically reserved for other authorities.”

44. I also defer to the opinion of the Court of Appeal of Trinidad and Tobago in the case of **Damian Belfonte vs. The Attorney General of Trinidad and Tobago C.A 84 of 2004** that where there is a means of redress that is inadequate, the Court should not exercise restraint. The Court stated that:

“The opinion in Jaroo has recently been considered and clarified by the Board in A.G vs Ramanoop. Their lordships laid stress on the need to examine the purpose for which the application is made in order to determine whether it is an abuse of process where there is an available common law remedy. In their lordship’s words:

“Where there is a parallel remedy, constitutional relief should not be sought unless the circumstances of which the complaint is made include some feature which makes it appropriate to take that course. As a general rule, there must be some feature, which, at least arguably, indicates that the means of legal redress otherwise available would not be adequate. To seek constitutional relief in the absence of such a feature would be a misuse, or abuse, of the Court’s process. Atypical, but by no means exclusive, example of such a feature would be a case where there has been an arbitrary use of state power.

Another example of a special feature would be a case where several rights are infringed, some of which are common law rights and some for which protection is available only under the constitution. It would not be fair, convenient or conducive to the proper administration of justice to require an applicant to abandon his constitutional remedy or to file separate actions for the vindication of his rights”.

45. Even in cases where issues relating to fundamental rights are being alleged in the nomination process the Court has held that as long as the Tribunal is seized of jurisdiction, such matters are better left to be handled by the relevant bodies in the first instance. This was the position of **Lenaola, J** (as he then was) in **H.C.Petition No. 203 of 2012 - Kapa Oil Refineries Limited vs. The Kenya Revenue Authority, The Commissioner of Customs Services and The Attorney General**, in which he expressed himself at page 15:

“I am also aware that even if this Court has jurisdiction to determine violation of fundamental rights and freedoms, it must also first give an opportunity to other relevant bodies established by law to deal with the dispute as provided in the relevant statute.”

46. In my view bodies which have been established by Parliament especially those tasked with resolution of political disputes ought to be allowed to grow and the Courts should only step in to ensure that they carry out their mandate in accordance with the Constitution and the legislation. It must be appreciated that these are specialised Tribunals set up specifically for the purposes of dealing with election disputes which are not ordinary civil disputes between private parties but are disputes which affect the rights of the citizens to choose their own representatives. **Mumbi Ngugi, J** in **Rich Productions Limited vs. Kenya Pipeline Company & Another [2014]**, explained why it must be slow to undermine prescribed

alternative dispute resolution mechanisms thus:

“The reason why the Constitution and the law establish different institutions and mechanism for dispute resolution in different sectors is to ensure that such disputes as may arise are resolved by those with the technical competence and the jurisdiction to deal with them. While the Court retains the inherent and wide jurisdiction under Article 165 to supervise bodies such as the 2nd respondent, such supervision is limited in various respects, which I need, not go into here. Suffice to say that it (the court) cannot exercise such jurisdiction in circumstances where parties before it seek to avoid mechanisms and processes provided by law, and convert the issues in dispute into constitutional issues when it is not.”

47. The intrusion of the Courts in such matters was explained by the House of Lords in **Chief Constable vs. Evans [1982] 3 ALL ER 141**, where the Lord Chancellor, **Lord Hailsham of St. Marylebone**, stated at p 143 as follows with respect to the judicial review remedy:

“This remedy, vastly increased in extent, and rendered, over a long period in recent years, of infinitely more convenient access than that provided by the old prerogative writs and actions for declaration, is intended to protect the individual against abuse of power by a wide range of authorities, judicial, quasi-judicial, and, as would originally have been thought when I first practiced at the Bar, administrative. It is not intended to take away from those authorities the powers and discretions properly vested in them by law and to substitute the courts as the bodies making the decisions. It is intended to see that the relevant authorities use their powers in a proper manner”.

48. Whether looked from the point of contempt of court or from the viewpoint that this is a fresh matter, adopting, as I hereby do, the purposive approach to statutory interpretation rather than the literal interpretation one, my view is and I hold that this dispute does not fall within the jurisdiction of this Court at this stage.

Order

49. Accordingly, the order which commends itself to me and which I hereby grant is that this application is incompetent and is hereby struck but with no order as to costs since the Respondents did not comply with the Court’s directions that they furnish soft copies of their pleadings.

50. It is so ordered.

Dated at Nairobi this 16th day of June, 2017

G V ODUNGA

JUDGE

Delivered in the presence of:

Miss Otieno for Prof Ojienda for the applicant

Mr Omuganda for Mr Macharia for the 1st Respondent

Miss Kinara for 2nd Respondent

Mr Ndegwa Wahome with Mr Kariuki Njiri for the interested party

CA Mwangi