

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI LAW COURTS

Petition 451 of 2012

OKIYA OMTATAH OKOITI PETITIONER

AND

THE ATTORNEY GENERALRESPONDENT

RULING

I have considered the nature of this matter and in essence it challenges the position of the State vis-a-vis the ratification of the Rome Statute. Several parties have been joined to these proceedings that is; the Commissioner of Police, the Judicial Service Commission, the Director of Public Prosecutions, the Commission for Implementation of the Constitution, the National Security Intelligence Service, Githu Muigai, Mathew Iteere, Willy Mutunga, Michael Gichangi and Charles Nyachae. All these offices cited are part of the state organs and the individual cited as respondents hold state or public office. Under **Article 156(4)(b)** of the Constitution the Attorney General is empowered to represent the National Government and state organs in court. It is in my view therefore that the joinder of the 2nd to 12th respondent is superfluous, it will lead to an increase in cost of litigation and burden the court process which in turn undermines the objective of achieving expeditious delivery of justice under **Article 159**. Consequently, on my own motion, I strike out the 2nd to 12th respondents from the petition. The petitioner is ordered to amend the petition accordingly.

DATED and DELIVERED at NAIROBI this 4th day of October 2012.

D. S. MAJANJA

JUDGE