



REPUBLIC OF KENYA

IN THE CHIEF MAGISTRATES COURT AT NYAHURURU

ELECTIONS ACT 2001

ELECTIONS (PARLIAMENTARY AND COUNTY ELECTIONS) PETITION RULES, 2017

ELECTION PETITION NO.1 OF 2017

**IN THE MATTER OF: ARTICLES 22(1) & (2)(b)(c), 23, 24, 38, 82, 252, 253(b), 258, 260 OF
THE CONSTITUTION OF KENYA**

**IN THE MATTER OF: THE CONTRAVENTION AND VIOLATION OF ARTICLES 10(2)(b),
27(4)(6), 54, 55, 56, 90, 177 and 193 OF THE CONSTITUTION OF KENYA**

IN THE MATTER OF: SECTIONS 34, 35, 36, and 37 OF THE ELECTIONS ACT

**IN THE MATTER OF: THE INDEPENDENT ELECTORAL AND BOUNDARIES
COMMISSION ACT, 2011**

MONICAH GATHONI GITHAE.....1ST PETITIONER

SOLOMON KIMANI KURIA.....2ND PETITIONER

AND

THE INDEPENDENT ELECTORAL AND BOUNDARIES

COMMISSION.....1ST RESPONDENT

JUBILEE PARTY.....2ND RESPONDENT

MARGARET WANJIRU IRERI.....3RD RESPONDENT

GEOFFREY NGARUIYA KARIUKI.....4TH RESPONDENT

ESTHER WANJIKU MUHOHO.....5TH RESPONDENT

JOSEPH KARIUKI WAITHERA.....6TH RESPONDENT

RULING ON PRELIMINARY OBJECTIONS

Introduction

There are two preliminary objections raised in this petition, which were filed by counsels for 4th respondent and counsel for the 3rd, 5th and 6th respondents. The preliminary objections raise similar ground and therefore directions were taken to handle them together.

The 4th respondent filed a Preliminary Objection application dated 29th day of September 2017 and filed in court on 2nd October 2017 stating that they are objecting to the petitioners petition seeking to have the nomination of the 3rd, 4th, 5th and 6th respondents herein declared unconstitutional, therefore null and void. The 4th Respondent filed a preliminary objection in *limini* on the following grounds:

1. THAT the Honorable Court herein lack jurisdiction noting that the Election Petition filed herein could only be sustained in the High Court's Constitutional and Human Rights Division noting that it seeks reliefs for violation of the Constitution of Kenya 2010 whereas an election petition to be filled before this Honorable Court can only be subject to an Election where ballots were cast as per the provisions of the **ELECTION ACT, 2011 (N). 24 of 2011), THE ELECTIONS (PARLIAMENTARY AND COUNTY ELECTIONS) PETITION RULES, 2017 at Sections 8 (3) a, b, c, d, e, & f** and the **First Schedule** particularly **FORMS 1, 2, 3, 4, 5, 6 & 7**.

2. THAT the **Constitution of Kenya 2010**, makes a clear distinction between elected members and nominated members and such therefore the Constitution does not envisage that special seats should be open for election. **Article 90(3) of the Constitution** refers to the process as 'allocation of special seats' and therefore not election nothing no votes are cast to pick members to fill such seats.

3. THAT the PETITION filed herein is fatally defective, incompetent, bad in law nothing that the same is not supported by a supporting affidavit as expressly stipulated by the **ELECTION ACT, 2011 (No. 24 of 2011), THE ELECTIONS (PARLIAMENTARY AND COUNTY ELECTIONS) PETITION RULES, 2017 at Sections 12 (1) a, b, (2) a, b, c, e, f, (3) & (4)**.

4. THAT the reliefs prayed for by the Petitioners and which as a matter of law are ordinarily to be placed in a **CONSTITUTIONAL PETITION** duly filed in the **CONSTITUTION AND HUMAN RIGHTS DIVISION OF THE HIGH COURT** cannot be sought howsoever in an **ELECTION PETITION** as herein commenced by the two Petitioners noting the express provisions of the **ELECTION ACT, 2011 (N). 24 of 2011), THE ELECTIONS (PARLIAMENTARY AND COUNTY ELECTIONS) PETITION RULES, 2017 at Sections 8 (3) a, b, c, d, e, & f** and the **First Schedule** particularly that were not subject of an election where ballots were cast nothing that the 4th Respondent is a nominated member of the County Assembly and no votes were cast by the electorate to elect him.

5. THAT the Election Petition is wholly incompetent, *contra statute*, misconceived, unprocedural, lacks merit and is an abuse of the court process as it is both bad in law and incurably defective.

A Supporting Affidavit sworn by 4th respondent GEOFFREY NGARUIYA KARIUKI on 29th September 2017 supports the above Preliminary Objections above.

The 3rd, 5th and 6th respondents filed a preliminary objection on the grounds that:

1. THAT this Honorable Court lacks jurisdiction to determine this matter as Section 74(1) of the Elections Act and Section 4 of the Independent Electoral and Boundaries Commission Act make it explicit and mandatory for disputes arising from nominations to be heard and determined only by the Independent Electoral and Boundaries Commission (I.E.B.C).

2. THAT under Article 88(4)(e) of the Constitution, the I.E.B.C is responsible for settlement of electoral disputes including disputes relating to or arising from nominations.

3. THAT the I.E.B.C has therefore the exclusive jurisdiction to hear and determine disputes relating to nominations.

4. THAT the Constitution, the Independent Electoral and Boundaries Commission Act and the Elections Act establish a dispute resolution procedure that must be strictly followed before this Honorable Court is called into action.

The Preliminary Objections above are supported by oral submissions that were made by counsels on 20th November 2017. Submissions were made orally in court but the Counsels submitted authorities.

Mr. Gatonye for 3rd, 5th and 6th respondents was the first to start his submissions. He states that the Preliminary objection for the 3rd, 5th and 6th respondent is dated 8th November 2017 and was filed in court on the same date. He submits that this court lacks jurisdiction to entertain this petition by virtue of article 88(4)(e) of the Constitution of Kenya 2010 as read with section 74(1) of the Elections Act, 2011. He submits that article 88(4) of the Constitution of Kenya provides that the Independent Elections and Boundaries Commission (herein after IEBC), which is the 1st respondent in this petition, is the one responsible for conducting and supervising elections and in addition it is tasked with settling election disputes including disputes relating to or arising from nominations but excluding election petitions and disputes after the elections.

He states that the petition before this court seeks to challenge an election by way of nomination of the 3rd, 4th, 5th and 6th respondents herein. Jubilee party on 23/7/1017 in its party list nominated the 3rd to 6th respondents. That IEBC on 23rd July 2017 published the party list in the Sunday Nation newspaper. That the Sunday Newspaper forms part of the 2nd petitioners supporting affidavit in this petition. Meaning that the 3rd to 6th respondents were essentially nominated on 23rd July 2017 and that it was incumbent upon the petitioners to challenge the nomination before IEBC at that time as provided under article 88(4)(e) of the Constitution, 2010. That article 88(4)(e) of the Constitution gives rise to section 74(1) of the Elections Act and section 4 of the IEBC Act. And that sections 74(1) and section 4 IEBC Act make it mandatory that disputes arising from nominations are to be heard and determined at the first instance by the IEBC. At this point he invites the court to look at section 74(1) of the Elections Act, which provides as follows;

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.

He submits that the provision in this section is mandatory which uses the word “shall” and therefore the IEBC should be the one to settle disputes arising from nominations. Therefore there is no leeway for an aggrieved party to go to court before exhausting that avenue.

He submits that this court lacks jurisdiction to handle this petition when the petitioners failed to go to IEBC in the first instance and instead waited after the elections and came to this court. He draws the court’s attention to the Supreme Court’s decision **In The Of Matter Of The Interim Independent Electoral Commission (2011) eKLR**, where the Supreme Court cited with approval the finding of the Court of Appeal finding in the case of **Owners of Motor Vessel ‘Lillian S’ v. Caltex Oil (Kenya) Limited (1989) KLR 1** said that jurisdiction flows from the law either through the constitution or through statute and that a court cannot donate jurisdiction to itself through interpretation, where wording of the the legislation is clear and there is no ambiguity.

He states that both article 88(4)(e) of the Constitution and section 74(1) of the Elections Act are clear and without ambiguity that the IEBC is tasked exclusively with responsibility to entertain disputes arising from nominations. And that the Supreme Court emphasized the importance of adhering to the mechanisms and procedures of dispute resolutions provided by the law. He submits that the Supreme Court held that the courts should not cross over to areas which Kenyans, specifically reserved for other authorities.

He therefore submits that if this court further continues to entertain this petition it will be usurping powers of the IEBC and it will be contrary to institutional independence provided and enjoyed by IEBC by virtue of article 249 of the Constitution. And that by this court finding that it has no jurisdiction will not be

engaged in rendering an alien decision but will be following precedents. He cites the decision in the election of **Josiah Taraiya Kipelian Ole Kores V Dr David ole Nkediye and 2 others**. And states that the court upheld the provision of article 88(4)(e) and section 74(1) of the Elections Act and refused to take over the powers of IEBC. He therefore urges this court to follow that decision and strike out this petition for want of jurisdiction.

He also refers this court to look at the submissions that were made in the election Petition Number 2 of 2017, which is also before this court in which similar preliminary objections have been raised and submissions made.

The second to submit is Mr. Maina Ngaruiya for the 4th respondent who also raises similar grounds of objection in the Preliminary Objection dated 29th September 2017 and filed in court on 2nd October 2017. He also refers the court to look at the Election petition number 2 of 2017 that is also before this court, in which he has raised similar preliminary objections. The respondents are the same in both petitions. He proceeds to argue his objections on 2 grounds:

The first ground of objection this court lacks jurisdiction to hear and determine this petition. He argues that when you look at the particulars of the petition filed by the two petitioners in this case, they show that the reliefs they are seeking are matters that can only be addressed by the IEBC or at the very least in the Constitutional and Human Right division of the High Court. And that the Election (Parliamentary and County Assembly) Petition Rules, 2017 particularly rule 8(3)(a)(b)(c)(d)(e) and (f) provides reliefs this court can grant while sitting as an election court, which are not what the petitioners are seeking. Therefore the dispute presented in this court by the 2 petitioners is one that cannot be handled by this court.

The 2nd limb of his submission is that there is no supporting affidavit filed by the two petitioners in support of the petition filed before this court. He states that the petitioners and particularly the 2nd petitioner being Solomon Kimani Kuria has sworn an affidavit dated the 31st August 2017 but it is in support of the notice of motion that was initially filled seeking injunctive orders. But the said affidavit is coached in such a manner as to be a supporting affidavit for the petition as well but in his view the supporting affidavit is supporting only the notice of motion but not the main petition.

He goes on to state that even if the said supporting affidavit by the second petitioner was to be said to be a supporting affidavit for the main petition it would still not hold water because this petition was commenced by two petitioners and that in such a petition it is incumbent upon a petitioner seeking to swear an affidavit to expressly show that he has been given authority to swear an affidavit on his own behalf and on behalf of the other petitioner. Meaning that the 2nd petitioner ought to have shown that the 1st petitioner being Monica Gathoni Githae had given authority to swear the affidavit on her Behalf as well. That in the absence of such express authority there is no supporting affidavit or affidavits filed by the two petitioners to support the petition and lack of a supporting affidavit is fatal to an election petition. He is therefore seeking this court to dismiss this election petition.

The two preliminary objections have been opposed by Mr kariuki Njiri for the two petitioners. He states that this court has jurisdiction to deal with this petition. He states that for this court to determine its jurisdiction, the court has to determine whether this petition is an Election petition or not. He agrees that article 88(4)(e) defines the role of the IEBC in very clear terms that the IEBC has power to settle electoral dispute including and relating to and arising from nominations, but excluding Election petitions and disputes that arise after the declaration of Election results.

He states that to determine whether this is an election petition or not the court has to look at modes of Election petitions;

1. Constitutional universal suffrage through direct elections
2. Nominations through party lists

The respondents in this case were elected through nominations as members of Nyandarua County Assembly. He submits that after the respondents were gazetted the power to settle any disputes was removed from the IEBC and it became an election dispute. That IEBC cannot resolve a dispute that is already out of its jurisdiction meaning that after gazettment IEBC cannot be able to recall the gazettment and it is only an election court that can cancel a gazette notice once published. That being the case then this court has jurisdiction to deal with this election petition. Furthermore the Chief Justice gazetted this court to deal with specifically this petition and election petition number 2 concerning the nomination of the respondents. He says that there are several authorities that determine at what stage an election petition begins or is supposed to be begin.

That in the case of **Kipkalia Kiprono Kones v Republic Exparte Kimani Wanyoike and others (2006) KLR** it was clearly stated that an election petition was the only valid means of challenging an election and the court gets seized with an election petition once the petition results have been declared. He states that the facts in that case were similar to the ones of this petition.

Another petition referred is **Moses Mushiki and 14 others V IEBC and 5 others reported in 2016**, where the Supreme Court defined two different modes of elections being through universal suffrage or through nomination. The Supreme Court noted that the only way to resolve a dispute ones results have been declared is by way of an election petition.

On the ground of objection that this election petition is not proper as it has no supporting affidavit he requests the court to read pages 11, 12, 13, 14, 32, 33 and 34 of the petition where there is an affidavit sworn by the 2nd petitioner as well as the 1st respondent. That page 11,12,13,14 of the petition has the supporting affidavit of the 2nd petitioner to support the petition. On page 32,33,and 33 is the supporting affidavit by the 1st petitioner.He is seeking the court to dismiss the preliminary objections.

Replies were made to the response. Mr. Maina for the 4th respondent states that he is not saying that the IEBC has jurisdiction now to deal with this petition after elections. He is saying that the petitioners failed to challenge the nominations at the earliest opportunity before the IEBC at nomination stage and they cannot now come before this court to dispute those nominations. Article 88(4)(e) of the Constitution and section (74)(1) of the Elections Act are very clear about nominations. And because they failed to challenge the nominations before the IEBC they cannot come to challenge it before this court. And that failure to challenge the nominations before the IEBC renders this election petition incompetent before this court and therefore the same should be struck out with costs.

He further submits that that there are no supporting affidavits for the petition and therefore the petition is incompetent and should be struck out.

Maina for the 1st respondent states that he associates with the submissions made by the counsel for the 4th, 3rd, 5th and 6th respondents.

Issues

1. Whether this court lacks jurisdiction to handle this petition after the petitioners failed to challenge the nomination before IEBC
2. Whether this court lacks jurisdiction to hear this petition because it is premised on the violation of certain articles in the Constitution of Kenya, 2010 and whether it ought to have been filed in the High Court's Constitutional and Human Rights Division.
 - ü Whether the prayers sought by the petitioners in this petition can only be handled in a constitutional petition in the High Court.
3. Whether this petition has supporting affidavits or not. Whether supporting affidavit filed by the 1st petitioner only supports the application that was filed together with the petition or it also

supports the petition. Whether the 1st petitioner did not file a supporting affidavit or did not authorize the 2nd respondent to file an affidavit on her behalf.

4. Whether this petition is incompetent, misconceived, un-procedural and an abuse of the court process.

The court of appeal in the case of **Owners of Motor Vessel 'Lillian S' v. Caltex Oil (Kenya) Limited (1989) KLR 1** described Jurisdiction as everything. Without it, a court has no power to make one step, where a court has no Jurisdiction there would be no basis for a continuation of proceedings pending other evidence and a Court of Law downs its tools in respect of the matter before it, the moment it holds the opinion that it is without jurisdiction.

This holding was cited by the Supreme Court in **Re Interim Independent Electoral Commission (2011) eKLR**. The Court further added that courts should not cross over to other areas, which Kenyans specifically assigned other authorities to deal with. It means that this court cannot assume jurisdiction it does not have because that would be unlawful.

We are aware that **IEBC** has been tasked through the Constitution and the Elections Act to deal with disputes arising from nominations but that is before the elections are held.

The Political Parties Disputes Tribunal is also tasked to deal with nomination disputes under section 39 of the Political Parties Act.

These grounds of opposition were also raised in the election petition number 2 that is also before this court.

Under section 75(1)(A) of the elections act, a dispute as to the election of a member of the county assembly, is to be heard by a resident magistrate's court that is designated and gazetted by the Chief Justice.

It was submitted that if the nomination process aggrieved the petitioners they should have filed his complaint with the IEBC. Under article 88(4)(e) of the Constitution of Kenya and also section 74(1) of the Elections Act, it states that IEBC shall be responsible for the settlement of electoral dispute arising from nominations before the election process is completed. The respondents state that the petitioners should have raised their complaints before the IEBC if they were aggrieved at the time when the 2nd respondent submitted its partly list of nominees for Nyandarua County Assembly to the 1st respondent, which published the list in the Daily Nation on 23rd July 2017. That by the petitioners choosing to come to court they have by passed the IEBC.

This petition was filed after the Elections and after the 1st respondent gazetted the names of the nominees on 28th August 2017. At that point jurisdiction passed from IEBC to the Election Court.

This court was gazetted by the Chief Justice to determine this election petition and there is no dispute that what is before this court is an Election petition. The Respondents who are raising the preliminary objections have not challenged the powers of the Chief Justice who gazetted this court to deal with the dispute in this Election petition. This court has not assigned itself this petition to hear it, but was mandated to do so through a Gazette Notice.

The respondents should first have applied to challenge the Chief Justice's powers and invalidated the gazette notice, which has not been done, and I cannot over rule a legal direction given by the Chief Justice to hear this petition by declaring that I have no jurisdiction.

Under article 88(4)(e) of the constitution, the IEBC is responsible for conducting and or supervising referendum and elections for any elective body of office established by the Constitution and any other elections prescribed by an act of parliament. In particular the IEBC is mandated to deal with disputes

relating to and arising from nominations but excluding election petitions and disputes that arise subsequent to declaration of election results and in respect to this case disputes that arise after gazettement of nominated members of the county assembly.

In the case of **David Okeka Oyugi V. Muslim Dida and 2 others (2016), eKLR**; the court stated that election petitions include such petitions that challenge the outcome of the electoral process. And an electoral process includes nominations and gazettement of members of the County Assemblies. IEBC has no jurisdiction to handle an election petition such as this one because this is an election petition arising subsequent to gazettement of the nominated members of the Nyandarua county assembly. It is my view therefore that only an election court can deal with this petition now.

This question was raised in the Supreme Court in election petition No. 1 of 2015, where the Court stated that Gazette notice signifies completion of Election through nomination and finalizes the process of constituting the County Assembly in question and that it is therefore clear that publication of the gazette notice marks the end of the IEBC mandate and shifts any consequential dispute to the election court. It further stated that the gazette notice also serves to notify the public about those who have been “elected” to serve as nominated members of the County Assembly.

As far as the first ground is concerned as regards the jurisdiction of this court, I find that it has no basis and must fail.

Second issue was that this court lacks jurisdiction because the prayers sought in this petition raise issues on Constitutional and human rights violations. Maina for the 4th respondent states that the prayers sought by the petitioners can only be granted in the high court and are outside what this court can grant under the Elections Act and the Election (Parliamentary and County) Petition Rules, 2017. I have looked at the prayers sought in this petition:

A permanent injunction stopping, restraining 3rd, 4th, 5th and 6th respondents from being sworn in as members of the County Assembly, Nyandarua county.

A declaration that the party list for nominees to represent marginalized groups for Nyandarua county provided by the 2nd respondent and published by the 1st respondent in the Sunday Nation, 23rd July 2017 is unconstitutional by failing to prioritize the representatives of the Persons with, disabilities and youth and therefore null and void.

A declaration that the list of names of nominated members of Nyandarua County Assembly published by the 1st respondent on 28th July 2017 vide Kenya Gazette Notice CXIX-No. 124 in respect of marginalized group category is unlawful, unconstitutional and therefore null and void.

An order to the 1st respondent to reconstitute the party list: -

- a. Gazette the 1st petitioner in the persons with disabilities category
- b. Gazette the 2nd petitioner in the youth category
- c. To fill the remaining position as provided for by provisions of section 36 of the Elections Act

As stated above this court has been mandated to deal with this election petition even with the knowledge of the prayers the petitioners are seeking. Basically the petition is challenging gazettement of the 4 respondents and it is only an election court that can annul or degazette the respondents if the petition is proved.

In **Election Petition No1 of 2015**, the supreme court of Kenya dealt with the issue of jurisdiction, where they took note of the argument by council for the 3rd, 5th and 6th respondent in that petition that what was before the high court and the court of appeal before the case went to the supreme court was a

constitutional petition seeking to prevent the violation of the rights of the respondents. The counsel for the third respondent had urged the court to distinguish between an election petition and contestation over the validity of a political party list. In that petition the respondents had sought a declaration that the list of nominees for the Nyandarua County Assembly that had been published by IEBC had violated articles 90, 98, 174 and 177 of the constitution as it had excluded Ndaragua, Olkalau and Ol Joorok constituencies from the nomination list. The Supreme Court stated that, it is not true that such a petition had nothing to do with elections and was only concerned with constitutional questions. It went on to state that this was a petition contesting the nomination of the appellants in that petition which is a nomination we hold to have been an integral part of the electoral process. And that only an electoral process has power to disturb the status quo. An aggrieved party would only initiate the process of ventilating his grievances by way of filing a petition in accordance with section 75 of the Elections Act.

I believe that the orders sought in this case if granted can have effect of nullifying the gazette of the 4th to 6th Respondent and in my view those orders can be granted in an Election court. By virtue of Article 87 of the Constitution an election court is recognized as an avenue of resolving electoral disputes and this court has been designed as an election court to deal with this petition in accordance with section 75 of the Elections Act.

In **Election Petition No1 of 2015**, the Supreme Court stated that to allow an electoral dispute to be transmuted to a violation of fundamental rights carries the risk of opening up a parallel dispute resolution regime that would only serve to complicate matters and defeat the *sui generis* character of an electoral dispute mechanism.

Therefore, this is an electoral dispute and not a constitutional petition.

In conclusion I find that the Preliminary Objection stating that this court lacks jurisdiction because the prayers sought are constitutional, lacks merit. Election petitions by nature are constitutional matters which courts have been assigned to deal with, even magistrate's courts. This objection is therefore overruled.

It was submitted that there are no supporting affidavit filed by the Petitioners to support the petition and that what was filed with the petition was in support of the Notice of Motion is only supporting the Notice of Motion. That even if that supporting affidavit was to be taken support the petition it has been filed by only one petitioner with no express provision that the 1st respondent had authorized the 2nd respondent to swear on her behalf.

Counsel for the petitioner however submits and requests the court to read page 11, 12, 13 and 14 of the petition where they have a supporting affidavit sworn by the 2nd petitioner **Solomon Kimani kuria** and pages 32,33, and 34 that have the supporting affidavit sworn by the 1st petitioner **Monica Gathoni Githae**. The supporting affidavits were filed to support the petition and the Notice of Motion.

I have considered the petitions and I have seen the supporting affidavits that were filed on the same date with the Petition and Notice of Motion. I consider supporting affidavits to be supporting the petition and the Notice of Motion. I do agree that a petition must be supported by an affidavit. In **Gatirau Peter Munya vs Dickson Mwenda Kithinji & 2 others (2014) eKLR** and **Ferdinand Ndungu Waititu vs IEBC and 8 others (2013) eKLR**, it was held that an Affidavit in support of the petition and any documents annexed thereto are deemed to be part of the petition and therefore part of the pleadings in the case.

Rule 8(4) of the Election Petition Rules provides that,

8(4) the petition shall

b) Be supported by an Affidavit sworn by the petitioner containing the particulars set out under Rule 12; and

Rule 12 states:

12(1) A petition shall be supported by an Affidavit, which shall

a) Set out facts and ground relied on in the petition

b) Be sworn personally by the petitioner or by at least one of the petitioners, if there is more than one petitioner

12(3) Each person who the petitioner intends to call as a witness at the hearing shall swear an Affidavit.

(4) A petitioner shall at the time of filling the petition file the Affidavit sworn under sub rule (3)

It is therefore important to have a supporting affidavit filed together with a petition. I have seen an affidavit sworn by the 2nd respondent and it indicates that it is in support of the petition. I have also seen an affidavit by the 1st respondent showing that she authorized the second petitioner to swear the affidavit. Rule 8 provides that:

8. A petition shall be accompanied by an affidavit by the petitioner—

(b) Sworn personally by the petitioner or by one of the petitioners, if more than one

I do not find sufficient reason or evidence to make me believe that this petition is incompetent for lack of a supporting affidavit or lack of jurisdiction. I do not see any reason to hold this petition as incompetent, misconceived, unprocedural and an abuse of the court process.

I proceed to dismiss the preliminary objections with costs.

J.N. Wanjala

Chief Magistrate

Court Ruling read in open court this 6th day of December 2017

Mr Mbugua , holding brief for Mr. Kariuki for the petitioners

Mr. Maina for the 4th respondent present.

Mr. Waichungu holding brief for Mr. Karanja for the 3rd, 5th and 6th respondents

J. WANJALA

CHIEF MAGISTRATE

6.12.2017