

REPUBLIC OF KENYA
IN THE EMPLOYMENT & LABOUR RELATIONS COURT
AT KERICHO

ELRC PETITION NO. E012 OF 2025
(Before Hon. Lady Justice Anna Ngibuini Mwaure)

KIBET LANGAT.....

PETITIONER

VERSUS

**THE CHIEF OFFICER FINANCE AND ECONOMIC
PLANNING- BOMET COUNTY..... 1ST**
RESPONDENT

BENARD KIPKORIR KOSGEI.....2ND
RESPONDENT

**THE GOVERNOR-COUNTY
GOVERNMENT OF BOMET..... 3RD**
RESPONDENT

COUNTY GOVERNMENT OF BOMET.....4TH
RESPONDENT

COUNTY ASSEMBLY OF BOMET.....5TH
RESPONDENT

BOMET COUNTY PUBLIC SERVICE BOARD....6TH
RESPONDENT

JUDGMENT

Introduction

1. The Petitioner filed a Petition dated 23rd June 2025 seeking the following orders that:

a. A declaration that the 2nd Respondent's purported appointment as deputy chief officer, finance and economic planning, Bomet county and subsequent appointment as a signatory to cheques, electronic payments and transfers with respect to the Bomet county government bank account is substantively and procedurally non-compliant with due process as set in statutory and constitutional provisions.

b. A declaration that the 3rd, 4th, 5th and 6th Respondents are under a duty under Article 73 of the Constitution to have regard to the guiding principles of leadership and integrity laws in appointing the 2nd Respondent.

c. An order of mandamus to compel the 1st Respondent to take over the function of signatory to cheques, electronic payments and transfers with respect to the Bomet County Government bank account as per regulation 85 of the Public Finance

**Management (County Governments)
Regulations.**

- d. A declaration that the 3rd, 4th, 5th and 6th Respondents failed to observe the national values and principles of governance as set out in Article 10 and values and principles of the Public Service under 232 of the Constitution in the manner they appointed the 2nd Respondent.**
- e. An order compelling the 2nd Respondent to account for all monies transacted and/or expended by him in his capacity as a signatory to cheques, electronic payments and transfers with respect to the Bomet county government bank account and to refund the salaries, remuneration, and personal emoluments received during the illegal tenure.**
- f. Any other orders and/or relief befitting the circumstances**
- g. Costs of the petition.**

Petitioner's case

2. The Petitioner avers that he challenges the appointment of the 2nd Respondent as a signatory to Bomet County Government's bank accounts, asserting it was done without the legal authority of the 1st Respondent, the Chief Officer of Finance and Economic Planning, and in violation of the Public Finance Management Act and its regulations.
3. The Petitioner contends that the continued role of the 2nd Respondent in authorizing financial transactions undermines lawful governance, transparency, and accountability, and poses a risk of mismanagement of public resources.
4. The Petitioner further avers that the 3rd, 4th, 5th, and 6th Respondents failed in their constitutional duty to ensure proper public appointments, thereby rendering the process unlawful.

2nd Respondent's replying affidavit

5. In opposition to the Petition, the 2nd Respondent filed his replying affidavit dated 11th July 2025.
6. The 2nd Respondent, serving as Senior Director of Finance, contends that the Petition and accompanying

application lack evidentiary support and are based on unfounded allegations.

7. The 2nd Respondent denies having been appointed as Deputy Chief Officer for Finance and Economic Planning or Deputy Chief Finance Officer, as claimed.
8. The 2nd Respondent asserts that his employment within the 4th Respondent's Department of Finance, Economic Planning, and ICT has not compromised constitutional principles of fairness, transparency, or accountability in the 6th Respondent's board.
9. The 2nd Respondent further argues that the Petition and application are frivolous, vexatious, and an abuse of the court process, aimed at undermining his constitutional and statutory duties.
10. Given the nature of the conservatory orders sought, the 2nd Respondent maintains that granting them would prematurely resolve substantive issues reserved for the Petition.
11. The 2nd Respondent emphasizes that public interest must prevail over individual claims and concludes that justice would be best served by declining the orders,

as no sufficient grounds have been presented to warrant their issuance.

5th Respondent's replying affidavit

12. The 5th Respondent filed its replying affidavit, sworn by Cosmas Kingetich Korir, Speaker County Assembly of Bomet, dated 11th July 2025.
13. The 5th Respondent avers that the petition and application are misconceived, lack merit, and disclose no triable issues or cause of action against it.
14. Citing Sections 148 and 149 of the Public Finance Management Act and Article 226 of the Constitution, the 5th Respondent avers that the designation of accounting officers is the exclusive mandate of the County Executive Committee Member for Finance, who is not legally obligated to consult the County Assembly.
15. The 5th Respondent emphasizes that the Assembly's role is limited to oversight through review of financial reports and does not extend to vetting accounting officers.
16. The 5th Respondent maintains that the Assembly has consistently fulfilled its constitutional and legal duties

regarding public appointments and that any alleged irregularities in designations should be directed at the appointing authority.

17. The 5th Respondent concludes that its inclusion in the suit is unwarranted, the claims are vague and unsubstantiated, and the petition amounts to a baseless fishing expedition that should be dismissed.

6TH Respondent's grounds of opposition and replying affidavit

18. The 6th Respondent filed grounds of opposition dated 2nd July 2025 on the following grounds:

1. The application does not meet the threshold for granting conservatory orders

2. Article 23(3)(c) of the Constitution notes that a reliance for conservatory orders is prima facie available only when a party alleging a right or fundamental freedom in the Bill of Rights has been denied and the application herein has not specified any right in the Bill of Rights that has been denied or violated

3. The application herein is NOT premised on allegation founded on the violation of a

fundamental right or freedom in the Bill of Rights to warrant this court's intervention

4. That the 6th Respondent is a stranger to the Petitioner/Applicant's allegations that the 2nd Respondent is executing any transaction with respect to Bomet County Government's bank account since the position of deputy chief officer for finance and economic planning, Bomet County, does not exist in the County's staff establishment.

5. That the affidavit of Mr. Kibet contains not statements of facts of which he had personal knowledge, but statements based on information the source whereof he has not disclosed, hence should be struck out

6. The application does not raise a prima facie case with probability of success

7. The application is brought in bad faith and ought to be dismissed in limine.

19. The 6th Respondent filed its replying affidavit, sworn by Chesang Emmy, the Ag. Chief Executive Officer, dated 8th July 2025.

20. The 6th Respondent asserts that the petition is frivolous, vexatious, and an abuse of court process, lacking the requisite constitutional threshold and specificity.
21. The 6th Respondent denies appointing the 2nd Respondent to the non-existent position of Deputy Chief Officer, arguing that the Petitioner has failed to disclose credible sources, the appointing authority, or the job description in question.
22. The 6th Respondent maintains that no constitutional violations have been demonstrated, particularly under Article 10, and that the petition lacks clarity on the alleged harm or enforceable decisions.
23. The 6th Respondent emphasizes its commitment to upholding the law and contends that the petition was filed with malicious intent to tarnish its reputation, warranting dismissal with costs.
24. The 1st and 3rd Respondents did not file their replying affidavits, and the court accordingly directed that the petition be determined through written submissions.

Petitioner's submissions

25. The Petitioner submitted that it is challenging the unlawful designation of the 2nd Respondent as Deputy Chief Finance Officer and signatory to Bomet County Government accounts, a role not recognized in law. The Petitioner argues that this appointment violates **Article 226(2) of the Constitution, Section 153(2) of the Public Finance Management Act, and Regulations 23 and 85(1) of the County Governments Regulations**. It also contravenes **Articles 10, 73, and 232 of the Constitution** and relevant provisions of **the Leadership and Integrity Act** and the **County Governments Act**.
26. The Petitioner relied on the cases of **Municipal Council of Mombasa v Republic & Umoja Consultants Ltd. [2002] KECA 8 (KLR), Katiba Institute V Attorney General & 3 others; Independent Medico-Legal Unit & 3 others (Interested parties) Petition No. 26 of 2019**, and **Kenya National Examination Council V Republic ex Parte Geoffrey Gathenji Njoroge & 9 others [1997] KECA 58 (KLR)**, and the Petitioner seeks orders of mandamus compelling the 1st Respondent to assume lawful signatory duties and

for the 2nd Respondent to account for and refund all monies received during his illegal tenure.

27. The Petitioner submitted that the petition has met the constitutional threshold under ***Anarita Karimi Njeru V Republic [1979] KEHC 30 (KLR)*** and is brought in the public interest to safeguard financial integrity and uphold the rule of law.
28. On costs, the Petitioner relied on ***section 27 of the Civil Procedure***, which provides that costs are within the discretion of the court and they generally follow the event.
29. The Petitioner urged this Honourable Court to allow the petition as prayed.

5th Respondent's submissions

30. The 5th Respondent submitted that the designation of the 2nd Respondent was carried out pursuant to section 148 of the Public Finance Management Act, which states that the County Executive Committee (CEC) member for finance is mandated to designate accounting officers for county government entities, unless otherwise specified by law. Typically, the head of a county entity serves as its accounting officer. The

CEC member must ensure every county entity has an accounting officer in line with Article 226 of the Constitution. Additionally, the Clerk of the County Assembly is the designated accounting officer for the assembly. To enhance efficiency, counties may adopt a centralized financial management system, subject to county assembly approval.

31. The 5th Respondent submitted that the designation in question was done in line with the provisions of section 148 of the Public Finance Management Act, which grants the power to designate to the County Executive Committee member responsible for finance. It is worth noting that whereas the appointment of County Chief officers requires vetting and approval by the County Assembly, the 5th Respondent's designation of accounting officers responsible for various departments is not subject to a vetting process. The county assembly can only conduct vetting and approval in instances where the law explicitly provides for the same. In this instant case, the law does not make a provision for vetting of a designee accounting officer, and as such therefore the 5th Respondent did not vet the said Mr. Bernard Kipkorir Kosgei.

32. The 5th Respondent relied on **Section 8 of the County Government Act** provides that the county assembly is responsible for vetting and approving nominees to county public offices as provided by law, performing legislative roles under Article 185 of the Constitution, approving county budgets, expenditures, borrowing, and development plans, and carrying out any other constitutional or legal duties. If the assembly fails to enact necessary legislation, applicable national laws may be used with modifications until the county assembly fulfils its legislative mandate. The 5th Respondent also relied on sections 4 and 8 of the Public Appointments (County Assemblies Approval) Act provides appointment requiring County Assembly approval under the Constitution or any law cannot proceed without such approval. In evaluating a nominee, the County Assembly must consider: the nomination procedure and shortlisting criteria; relevant constitutional or legal requirements for the office; and the nominee's suitability based on their qualifications, experience, and alignment with the needs of the appointing body.

33. The 5th Respondent maintains that the designation of Bernard Kipkorir Kosgey as an accounting officer for Bomet County was lawful, procedural, and aligned with **Articles 10 and 232 of the Constitution**. Kosgey was a long-serving officer, competitively appointed by the County Public Service Board as a Senior Accountant, and had been performing duties akin to those of an accounting officer. The Respondent refutes claims of arbitrariness, asserting that the Petitioner failed to provide any evidence, including a letter of appointment, to support allegations of legal or constitutional breaches. The 5th Respondent relied on **sections 107, 108, and 109 of the Evidence Act**. The Respondent emphasizes that the burden of proof lies with the party making the claim, and without such proof, the court cannot issue any declarations or orders.

34. The 5th Respondent submitted that the Petitioner seeks declaratory and mandamus orders, alleging constitutional violations in the designation of Bernard Kipkorir Kosgey as an accounting officer. However, the Respondents argue that the petition lacks the

required precision and evidence, as established in **Anarita Karimi Njeru V Attorney General(supra)**. The 5th Respondent submitted that the Petitioner failed to specify the rights violated, the manner of violation, or how they were personally affected, rendering the petition unsubstantiated.

35. The 5th Respondent relied on several precedents to argue that constitutional petitions must be pleaded with clarity and specificity. In **Mumo Matemu V Trusted Society of Human Rights Alliance & 5 others [2013] KECA 445 (KLR)**, the Court of Appeal emphasized that citing constitutional articles without detailing the nature and manner of alleged violations fails the standard set in **Anarita Kirimi Njeru(supra)**, which requires reasonable precision in constitutional pleadings. Similarly, in **Kenya Youth Parliament & 2 others v Attorney General & 2 Others [2012] KEHC 5436 (KLR)**, the court found no ambiguity in the cited articles and noted the petitioners failed to demonstrate any procedural defects in the appointment process they challenged. The court held that decisions made by competent organs cannot be subjected to merit review, and any

attempt to remove the Director of Public Prosecutions must comply with **Article 158(4) of the Constitution. In Githunguri Dairy Farmers Co-operative Society Ltd V Attorney General & 2 others [2016] KEHC 7104 (KLR)**, the court reiterated that the burden of proof lies with the complainant to establish the existence and violation of a specific right, after which the State must justify the restriction. This principle echoes **Catholic Commission for Justice & Peace in Zimbabwe v Attorney General* [1993] 2 LRC (Const) 279**, where Gubbay CJ affirmed that asserting a breach of fundamental rights requires factual evidence before the respondent is obliged to respond.

36. The 5th Respondent argued that the petitioner failed to meet the evidentiary and pleading standards required in constitutional litigation. The 5th Respondent relied on the case of **Susan Mumbi V Kefala Grebedhin (HCCC No. 332 of 1993)**. It was emphasized that the burden of proof lies with the party asserting a claim, and a lack of evidence renders the petition deficient. The Respondent further relied on **Meme V Republic [2004] eKLR** and **Anarita Karimi Njeru V Republic (supra)** to

stress that constitutional petitions must be pleaded with reasonable precision, clearly stating the rights violated, the constitutional provisions breached, and the manner of infringement. In ***Communication Commission of Kenya & 5 Others v Royal Media Services Ltd & 5 Others [2014] eKLR***, the Supreme Court reaffirmed that a petitioner must demonstrate the specific rights infringed and the basis of the grievance.

37. The 5th Respondent submitted that the petitioner is not entitled to costs and urged that the petition lacked these particulars, rendering it incompetent and warranting dismissal with costs.

6th Respondent's submissions

38. The 6th Respondent submitted that the Petition fails to meet the threshold for constitutional litigation, as established in ***Anarita Karimi Njeru V Republic(supra)***, which requires a petitioner to plead with reasonable precision the constitutional provisions violated, the manner of violation, and the responsible party. Although the Petitioner cites ***Articles 10, 73, and 232 of the Constitution***, and ***sections 57 to 59 of the County Governments***

Act, no specific act or omission by the 6th Respondent is identified. The alleged office of “Deputy Chief Officer Finance and Economic Planning” was not created, advertised, or recognized by the 6th Respondent. In ***Trusted Society of Human Rights Alliance v Attorney General & 2 Others [2012] eKLR***, the court emphasized that vague and generalized claims without a causal link to the respondent cannot invoke constitutional jurisdiction. Accordingly, the Petition discloses no reasonable cause of action against the 6th Respondent.

39. The 6th Respondent submitted that the Petition fails to meet the constitutional and jurisprudential threshold for conservatory orders under ***Article 23(3)(c) of the Constitution***, as outlined in ***Gatirau Peter Munya V Dickson Mwenda Kithinji & 2 Others [2014] eKLR***, which requires a prima facie case, irreparable harm, public interest, and ends of justice. The Petition lacks a prima facie case, as no specific act or omission is pleaded, and the alleged office of “Deputy Chief Officer Finance” was not created or recognized. This deficiency echoes ***Anarita Karimi Njeru V Republic(supra)*** and ***Trusted Society of Human Rights Alliance V AG & 2 Others(supra)***,

which stresses precision and credible evidence in constitutional pleadings. The claims are speculative, unsupported by facts, and fail to show irreparable harm, as noted in ***Stephen Kinini Wang'ondu V The Ark Ltd [2016] eKLR***. Public interest and the balance of convenience, per ***Giella V Cassman Brown [1973] EA 358***, favour allowing the 6th Respondent to perform its statutory duties under **section 59 of the County Governments Act**.

40. The 6th Respondent submitted that the Petition amounts to abuse of court process and should be dismissed with costs under **section 27 of the Civil Procedure Act**.

41. At the time of writing of this judgment, the 1st, 2nd, 3rd and 4th Respondents had put in their submissions and a summary of the same is as follows: -

Submissions dated 25th July 2025 stated that the petition and Notice of Motion dated 23rd June 2025 lack the requisite precision and factual basis required under **Rule 10(2) of the Constitution of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules, 2013**.

The 1st, 2nd, 3rd and 4th Respondents contend that the

Petitioner failed to demonstrate how constitutional provisions were violated, citing **Anarita Karimi Njeru V Republic(supra), Mumo Matemu V Trusted Society of Human Rights Alliance & 5 Others (supra),** and **New Port Inn Ltd V County Government of Nairobi [2021] eKLR** in support of that proposition. The 1st, 2nd, 3rd and 4th Respondents further argue that the Petitioner did not exhaust alternative dispute resolution mechanisms as mandated by **Article 159(2)(c) of the Constitution** and **section 75(c) of the County Government Act,** referencing **Gabriel Mutava & 2 Others V MD Kenya Ports Authority [2016] eKLR, Leonard Otieno V Airtel Kenya Ltd [2018] eKLR,** and **National Assembly V James Njenga Karume [1992] eKLR** in support of that proposition. Consequently, 1st, 2nd, 3rd and 4th Respondents urge the court to strike out the petition for being incompetent and lacking merit.

Analysis and determination

42. The court has considered that petition, grounds of opposition, replying affidavits and rival submissions by

the counsels; the issue for determination is whether the petition is merited.

43. ***Section 45 of the County Government Act***

provides that when a county chief officer position becomes vacant, the Governor must, within 14 days, nominate a qualified candidate from those competitively sourced and recommended by the County Public Service Board, and appoint them with county assembly approval. The role is part of the county public service, with the officer reporting to the relevant County Executive Committee member and serving as the authorized officer for delegated powers. The Governor may reassign the officer, and the position becomes vacant upon death, resignation, or lawful removal.

44. ***Section 148 of the Public Finance Management Act, 2012,***

empowers the County Executive Committee (CEC) member for finance to designate accounting officers for county government entities. These officers are responsible for managing finances within their respective departments. Typically, the head of a county entity serves as its accounting officer unless otherwise stated by law. The CEC

member must ensure compliance with Article 226 of the Constitution, and the Clerk of the County Assembly is automatically the accounting officer for the assembly. Additionally, counties may adopt a centralized financial management system to enhance efficiency, subject to county assembly approval.

45. ***Section 60 of the County Government Act***

provides that the County Public Service Board may establish a new public office within the county government if it determines that the office serves the public interest, fills a unique functional gap, and will be competitively and transparently filled. The office must not disadvantage existing roles or create unfair advantages, and the department requesting it must have prudently used its current staffing. Funding must be available and balanced to avoid straining other budgetary needs. A formal written request must be submitted by the relevant department head, and the Board must consider workload and departmental suitability before approving the establishment.

46. In ***Anarita Karimi Njeru V Republic(supra)***, the court held that a petitioner seeking enforcement of constitutional rights must clearly and specifically

state the constitutional provisions allegedly violated, the manner of violation, and the facts supporting the claim.

47. In this instant case, the Petitioner avers that the 2nd Respondent was given the role of Deputy Chief Officer, Finance and Economic Planning in the 4th Respondent department of Finance, and he was added to the responsibility to be a signatory of the bank accounts. On the other hand, the Respondents aver that they did not do anything wrong and complied with the law.
48. In his replying affidavit dated 23rd June 2025 the 2nd Respondent stated that he had never been appointed to serve as Deputy Chief Officer for Finance and Economic Planning or Deputy Chief Finance Officer. He states his position was Finance Economic Planning and ICT which position he says did not undermine the constitutional value of fairness, transparency and accountability of Bomet County Public Service.
49. The 6th Respondent also in his grounds of opposition dated 2nd July 2025 states that the 6th Respondent is not aware that 2nd Respondent used to execute any

transactions with respect to Bomet County Governments bank account. He affirms the position of Deputy Chief Officer for Finance and Economic Planning does not exist in the County's staff establishment.

50. In his submissions the 6th Respondent affirms he never created such a position and has no record of appointing any person to such a position or involvement in the alleged financial activities.

51. The 5th Respondent in his submissions dated 31st July 2025 leans on Section 148 of the Public Finance Management Act which provides as follows:-

“Designation of accounting officers for County Government entities

County Executive Committee Member of Finance (1) A County Executive Committee member of finance shall, except as otherwise provided by law, in writing designate accounting officers to be responsible for managing the finances of the County Government entities as is specified in the designation. (2) Except as otherwise stated in other legislation,

the person responsible for the administration of a County Government entity, shall be accounting officer responsible for managing the finances of that entity. (3) A County Executive Committee member for finance shall ensure that each County Government entity has an accounting officer in accordance with Article 226 of the Constitution. (4) The Clerk to the County Assembly shall be the accounting officer of the County Assembly. (5) A County Government may, in order to promote efficient use of the county resources, adopt, subject to approval by the county assembly, a centralised county financial management services.”

52. He says that Section 148 of the Public Finance Management Act designate power to County Executive Committee member to be responsible for finance. He says that position is not subjected to vetting unlike position of County Chief Officer which requires vetting and approval of the County Assembly.

53. The 5th Respondent further states that the 2nd Respondent was a long serving officer who had gone through stringent competitive appointment by the County Public Service Board as a Senior accountant and had served in similar roles to what is required of the accounting officer.
54. The trite law is that he who alleges must prove - Sections 107, 208 and 109 of the Evidence Act. The Petitioner has made broad and unsupported allegations of the appointment of the 2nd Respondent as a Deputy Chief Officer or Deputy Chief Finance Officer. The court has had no benefit of any appointment letter of the 2nd Respondents position from the Petitioner or from the Respondents themselves. The one who alleged has the equity to prove and he should have presented documentations to prove the 2nd Respondents position. Otherwise the petition becomes mere allegations which a court of Law cannot countenance.
55. The court is aware the County Government Act 2012 and Public Finance Management Act 2012 which guides Kenya's County Governments do not explicitly provide for the position of Deputy Chief Officer

Finance. The legal Framework provides for appointment of County Chief Officer who is the accounting and authorised officer for specific department such as Finance.

The other roles and structures below the chief officer are typically provided in each County's human resource and administrative framework.

The Respondents have clearly explained they have no position of a Deputy Chief officer and nobody has been appointed to the said position.

As earlier said there is no evidence or documentation to prove the averments by the Petitioner

56. In conclusion in cases where constitutional violations are pleaded the Petitioner bears the burden to prove with reasonable precision the constitutional provisions violated, the manner of violation and by whom. This was established in the case of **Anarita Karimi Njeru & Republic No. (1) (1979) eKLR** where court states: -

“If a person is seeking redress from the High Court on a matter which involves reference to the Constitution, it is important that he should set out with a reasonable degree of precision that of

which he complains, the provisions said to be infringed, and later the manner in which they are alleged to be infringed."

57. The Petitioner alleges violations of articles 10, 73, 232 and 226 of the Constitution.

These are generally referred to principles of leaderships and national values and integrity. The court however have not seen in the Petition and submissions specifics of violations of the above by the Respondents in employing an accountant under the County staff establishment and as earlier said the position is not of a Deputy Chief Officer.

58. It is also not clear who the Petitioner is charging with violating these constitutional and statutory provisions which include Sections 23 and 85 of Public Finance and Management Act (County Government) Regulation.

The Petitioner has not specified the roles played by the six (6) Respondents in violating the Constitutional and Statutory Law but is mere and generalised speculations against all of them.

59. The petition therefore lack factual evidence on how the Respondents violated the cited provisions of the Constitution and of the law.

60. In the case of ***Grace Wairimu Sorora & Another - VS- National Land Commission & 2 Others (2021) eKLR*** the court held: -

“However, our analysis cannot end at that level of generality. It was the High Court’s observation that the petition before it was not the “epitome of precise, comprehensive, or elegant drafting.” Yet the principle in Anarita Karimi Njeru (supra) underscores the importance of defining the dispute to be decided by the court. In our view, it is a misconception to claim as it has been in recent times with increased frequency that compliance with rules of procedure is antithetical to Article 159 of the Constitution and the overriding objective principle under section 1A and 1B of the Civil Procedure Act (Cap 21) and Section 3A and 3B of the Appellate Jurisdiction Act (Cap 9).

Procedure is also a handmaiden of just

determination of cases. Cases cannot be dealt with justly unless the parties and the court know the issues in controversy. Pleadings assist in that regard and are a tenet of substantive justice, as they give fair notice to the other party. The Principle in Anarita Karimi Njeru (supra) that established the rule that requires reasonable precision in framing of issues in constitutional petitions is an extension of this principle.”

61. The court having carefully considered the pleadings and submissions and the provided authorities the court finds glaring gaps in the petition and find no legal reasons to grant the orders in the petition. The Notice of motion and Petition both dated 23rd June 2025 are found unmerited and are both dismissed.
62. This being a public litigation matter it is right for the court to order respective parties meet their own costs of the application and Petition.

Orders accordingly.

**Dated, Signed and Delivered virtually at Nakuru
this 31st Day of October, 2025.**

**ANNA NGIBUINI MWAURE
JUDGE**

ORDER

In view of the declaration of measures restricting Court operations due to the COVID-19 pandemic and in light of the directions issued by His Lordship, the Chief Justice on 15th March 2020 and subsequent directions of 21st April 2020 that judgments and rulings shall be delivered through video conferencing or via email. They have waived compliance with **Order 21 Rule 1 of the Civil Procedure Rules**, which requires that all judgments and rulings be pronounced in open Court. In permitting this course, this Court has been guided by Article 159(2)(d) of the Constitution which requires the Court to eschew undue technicalities in delivering justice, the right of access to justice guaranteed to every person under Article 48 of the Constitution and the provisions of **Section 1B of the Civil Procedure Act (Chapter 21 of the Laws of Kenya)** which impose on this Court the duty of the Court, inter alia, to use suitable technology to enhance the overriding objective which is to facilitate

just, expeditious, proportionate and affordable resolution of civil disputes.

A signed copy will be availed to each party upon payment of Court fees.

ANNA NGIBUINI MWAURE

JUDGE

ORIGINAL