



Tom Brown Limited & another v County Executive Committee Member in Charge of Planning & 2 others; Attorney General & 4 others (Interested Parties) (Environment and Land Petition E053 of 2022) [2025] KEELC 7228 (KLR) (23 October 2025) (Ruling)

Neutral citation: [2025] KEELC 7228 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT AND LAND PETITION E053 OF 2022
OA ANGOTE, J
OCTOBER 23, 2025**

BETWEEN

TOM BROWN LIMITED 1ST PETITIONER

HON JOHN HARUN 2ND PETITIONER

AND

**COUNTY EXECUTIVE COMMITTEE MEMBER IN CHARGE OF
PLANNING 1ST RESPONDENT**

NAIROBI CITY COUNTY 2ND RESPONDENT

NOVA REALTY GROUP LIMITED 3RD RESPONDENT

AND

ATTORNEY GENERAL INTERESTED PARTY

MINISTRY OF DEFENCE INTERESTED PARTY

CHINESE EMBASSY, KENYA INTERESTED PARTY

**DIRECTOR, DIRECTORATE OF CRIMINAL INVESTIGATIONS
(DIRECTOR IN CHARGE, CID INVESTIGATIONS, NAIROBI CITY
COUNTY) INTERESTED PARTY**

LAND USE PLANNING LIAISON COMMITTEE INTERESTED PARTY

RULING

1. Through a Notice of Motion dated 23rd May 2025, brought pursuant to Articles 27, 50 and 159 of the Constitution of Kenya, Sections 1A, 1B and 3A of the Civil Procedure Act, Regulation 21 of the Judicial



Service (Code of Conduct and Ethics) Regulations, Section 11 of the *Leadership and Integrity Act* 2012 and Order 51 Rule 1 of the Civil Procedure Rules, the 3rd Respondent seeks the following orders:

- a. The Honourable Justice Oscar Angote recuse himself from hearing and determining the present case.
 - b. Costs of the application be provided for.
2. The application is supported by the grounds set out on its face and by the Supporting Affidavit sworn by Hassan Abdi Mohamed, a Director of the 3rd Respondent.
 3. The deponent deposed that on 4th March 2025, the 3rd Respondent became aware, through an article published on the Citizen Digital News platform titled “Petition Filed Seeking Removal of High Court Judge Oscar Angote,” of the existence of JSC Petition No. 35 of 2025 lodged before the Judicial Service Commission (JSC), seeking the removal of the presiding Judge in this matter.
 4. It was deposed that upon inquiry, Counsel for the 3rd Respondent, Mr. Adano Damocha, established that the said Petition had been filed by the Trusted Society of Human Rights Alliance, represented by KMK Law LLP Advocates. Counsel is said to have obtained a copy of the Petition from the said firm together with a letter dated 10th March 2025 from the Judicial Service Commission confirming receipt of the complaint.
 5. Mr. Mohamed averred that he was alarmed to learn that one of the allegations in the Petition touched on the conduct of the presiding Judge in relation to this matter; that the Petition allegedly claimed that the Honourable Judge was a personal friend of the 2nd Petitioner and had previously handled matters in which the 2nd Petitioner was a party and had allegedly been successful, including Malindi ELC No. 171 of 2013, ELC Case No. 226 of 2017 and the present suit, ELC Petition No. E053 of 2022.
 6. It was alleged that in the latter case, the judge rendered a ruling in the Petitioner’s favour based on an affidavit allegedly filed without leave of the court, five days before the ruling date.
 7. The deponent contended that whether or not the allegations were true, their very existence had caused apprehension on the part of the 3rd Respondent, who now fears that the outcome of this matter is predetermined in favour of the 2nd Petitioner.
 8. It was further deposed that during a virtual hearing of this matter held on 14th May 2025, the Honourable Judge denied knowledge of the Petition before the JSC and proceeded to handle the matter, thereby heightening the 3rd Respondent’s discomfort and apprehension.
 9. The deponent averred that a Judge may, on his or her own motion, recuse himself or herself from proceedings in which his or her impartiality might reasonably be questioned, even without a formal application. Reference was made to the Judicial Service (Code of Conduct and Ethics) Regulations, which provide for instances where a judicial officer ought to disqualify himself, including where the officer has a personal interest in, or a relationship with a person who has an interest in, the outcome of the matter.
 10. It was therefore contended that the existence of the said Petition before the Judicial Service Commission constitutes sufficient and reasonable cause for the Honourable Judge to recuse himself from further handling of this matter pending the determination of the Petition.
 11. The Honourable Attorney-General, on behalf of the 1st, 2nd and 4th Interested Parties, opposed the application through Grounds of Opposition dated 30th May 2025. It was contended that mere



- allegations and hearsay, as contained in an untested Petition before the Judicial Service Commission, cannot form a proper or lawful basis for the recusal of a Judge.
12. The Attorney-General further averred that the 3rd Respondent had not demonstrated any nexus between Nova Realty Group Limited and the Trusted Society of Human Rights Alliance, the alleged complainant before the Judicial Service Commission.
 13. It was also submitted that under Article 171 of the Constitution, the Judicial Service Commission is an independent constitutional commission and not part of the Judiciary as defined under Article 161(1). Consequently, any complaint lodged before it remains a mere allegation unless and until the Commission establishes a prima facie case and, in accordance with Article 168 of the Constitution, recommends to the President the formation of a tribunal for further inquiry.
 14. It was further submitted that the Honourable Judge is not on trial before the Judicial Service Commission, and that an application for recusal premised solely on the existence of a complaint before the said Commission, which is not a party to these proceedings, cannot constitute a lawful or reasonable basis for the Judge's disqualification.
 15. The Attorney-General deponed that if the 3rd Respondent was dissatisfied with any decision previously rendered by this Court, the proper recourse lay in an appeal or review, and not through an application seeking the recusal of the Judge on account of his exercise of judicial discretion in issuing interim orders. Reliance was placed on the decision of the Court of Appeal in *Patriotic Guards Limited vs James Kipchirchir Sambu* [2018] KECA 799 (KLR) where it was held that judicial discretion must be exercised judiciously not on caprice, whim, likes or dislikes.
 16. It was averred that one of the questions raised by the 3rd Respondent concerns whether the Court's exercise of discretion demonstrated actual bias. In this regard, reference was made to Regulation 7(d) of the Judicial Service (Code of Conduct and Ethics) Regulations, which obliges judicial officers to exercise judicial authority independently and to exercise judicial function without reference to extraneous influences.
 17. The Honourable Attorney-General contended that the allegations questioning the impartiality of the presiding Judge are unreasonable, taken out of context, irrelevant, and inconsistent with the provisions of Rule 5 of the Judicial Service (Code of Conduct and Ethics) Regulations.
 18. It was contended that this application is an assault on the judge's duty to sit and his presumed impartiality under oath of service. Reliance was placed on the decision by the Supreme Court in *Gladys Boss Shollei vs Judicial Service Commission & another* [2018] eKLR on the duty of a judge to sit.
 19. Further, it was contended that the application for refusal based on the Judge's previous decisions is misconceived and unsupported by law. The Attorney General cited the case of *Saad Yusuf Saad vs Independent Electoral and Boundaries Commission (IEBC) & 2 others* [2017] eKLR and *Galaxy Paints Company Limited vs Falcon Guards Limited* [1999] eKLR.
 20. It was additionally stated that the 3rd Respondent had not placed before the Court any material or factual basis to support the allegation of bias against the presiding Judge. Reliance was placed on the recent decision of the Court of Appeal in *Gachagua & 5 others vs Maingi & 80 others (Consolidated)* [2025] KECA 790 (KLR), where the Court reiterated that bias must be established on clear and cogent evidence, not on conjecture or apprehension.
 21. The Petitioners opposed the application through a Replying Affidavit sworn on 30th June 2025 by John Harun Mwau, the 2nd Petitioner. The deponent averred that the affidavit of Hassan Abdi Mohamed



- and its annexures were based on fabrications, falsehoods, and deliberate distortions of fact, which could not form a genuine or bona fide basis for an application seeking the recusal of a judge.
22. It was contended that the allegations were calculated to malign the presiding Judge, scandalize the court, and unjustifiably disqualify a lawfully constituted bench.
 23. Mr. Mwaui deposed that he neither knew nor had ever interacted with Elijah Sikona or the Trusted Society of Human Rights Alliance, the entity alleged to have lodged the complaint before the Judicial Service Commission (JSC). He described them as “guns for hire” and averred that both the instant application and the JSC Petition No. 35 of 2025 were actuated by malice and bad faith, designed solely to besmirch the reputation of the presiding Judge.
 24. He further deposed that upon perusal of the Petition and noting the falsehoods sworn on oath, he formally lodged a criminal complaint requesting investigations into the falsehoods contained in the affidavit of Hassan Abdi Mohamed and in the said Petition before the JSC.
 25. It was his deposition that the allegation in Annexure HAM-2 to Mr. Mohamed’s affidavit, that he was present at the Tribe Hotel in 2023, was false, malicious, and devoid of factual foundation. He categorically denied ever meeting the Honourable Judge, whether at the Tribe Hotel or elsewhere, or having any form of personal or professional relationship with him.
 26. The 2nd Petitioner equally denied ever receiving any judicial favour in Malindi ELC No. 171 of 2013, Vros Produce Limited vs Chief Land Registrar & 525 Others; Nairobi ELC No. 226 of 2017, Wibeso Investments Limited & Another vs Tamarind Meadows Limited & Others; or in the present matter, ELC Petition No. E053 of 2022, Tom Brown Ltd & John Harun Mwaui v Nairobi City County & Nova Realty Group Limited & others.
 27. The deponent asserted that it was unethical and a gross abuse of the court process for officers of the court to knowingly swear to false allegations with the intention of forum shopping for a favourable bench. Such conduct, he argued, represents a deliberate attempt to undermine the integrity of judicial proceedings and constitutes a grave breach of professional ethics.
 28. In response to the specific allegations made, the 2nd Petitioner averred that with respect to Malindi ELC No. 171 of 2013, the claim that the Judge failed to disclose a personal relationship with the 2nd Plaintiff was false and unfounded, as no such relationship existed. Regarding ELC No. 226 of 2017, he stated that the contention that the Honourable Judge relied on expunged evidence was a mischaracterization of the record, noting that the appeal therefrom is still pending before the Court of Appeal.
 29. As for ELC Petition No. E053 of 2022, he deposed that the allegation that the Court relied on an affidavit filed without leave is factually and legally untenable. Further, it was deposed, the 3rd Respondent had neither appealed nor sought review of the ruling complained of, yet such would have been the proper legal recourse rather than a motion for recusal.
 30. He further averred that judicial officers have a constitutional and ethical duty to sit and determine matters unless clear and reasonable grounds for recusal exist. Reliance was placed on the decision in Prayosha Ventures Limited vs NIC Bank Ltd & Others [2020] eKLR.
 31. The deponent contended that the mere fact that a Judge has rendered a ruling or judgment adverse to a party cannot, by itself, be a valid ground for recusal. A party aggrieved by such a ruling retains the right to appeal.
 32. It was his further deposition that the present application is not borne of any legitimate grievance but rather stems from the 3rd Respondent’s dissatisfaction with the Court’s previous ruling and



- apprehension regarding the likely outcome of the Petition. He asserted that the accusations against the Honourable Judge amount to an affront to judicial independence and constitute an impermissible attempt to intimidate the Court. He characterized the motion as a disguised appeal and an attack on the dignity and authority of the judiciary.
33. The deponent described the motion as a procedural subterfuge designed to pre-empt the Court's determination of the substantive Petition, circumvent the appellate process, and achieve forum shopping under the guise of a recusal application.
 34. He further maintained that the Petition before the JSC is not a bona fide complaint but rather a concoction of falsehoods incapable of sustaining a recusal application. He clarified that during mention of this matter, the Honourable Judge had confirmed he had not been notified of any such Petition before the JSC. It was thus misleading and made in bad faith for Hassan Abdi Mohamed to allege that the Judge was aware of the Petition.
 35. Mr. Mwau averred that both the recusal motion and the alleged related Petition before the JSC were filed in bad faith and amount to an unethical misuse of multiple legal fora for collateral purposes.
 36. He contended that the conduct of making and propagating false allegations against a judicial officer by Adan Ahmed Sheikh t/a Wetangula Adan & Co. Advocates, Mr. Adano Damocha, Samuel Maina Karanja t/a KMK Law LLP Advocates, Hassan Abdi Mohamed, Elijah Sikona, and the Trusted Society of Human Rights Alliance, constituted a deliberate and coordinated abuse of court process.
 37. He termed this conduct as professional misconduct contrary to Rules 9 and 12 of the Advocates (Practice) Rules, Sections 55 and 60 of the Advocates Act, and Articles 10, 73(2)(b), and 232 of the Constitution.
 38. The deponent asserted that unless the Court acts decisively to curb such conduct, a dangerous precedent would be set, permitting advocates to engage in misleading advocacy with impunity, thereby subverting justice and eroding public confidence in the rule of law.
 39. The 2nd Respondent emphasized that the letter dated 10th March 2025 from the JSC merely acknowledged receipt of the Petition and did not in any way endorse, verify, or confirm the truth of the allegations contained therein.
 40. The Petitioners accordingly urged the Court to dismiss the application as frivolous, vexatious, and an abuse of the process of the Court. It was argued that granting the orders sought would not only prejudice the expeditious determination of the substantive Petition, but would also embolden acts of judicial intimidation and impunity contrary to the constitutional principles of judicial independence and the rule of law. The parties filed written submissions and authorities which I have considered

Analysis and Determination

41. Upon careful consideration of the application, responses and submissions filed by the parties, the single overarching issue that arises for determination is whether the 3rd Respondent has established a sufficient and reasonable basis to warrant the recusal of the Court from further hearing and determination of this matter. In addressing this question, the Court shall consider:-
 - a. Whether the existence of JSC Petition No. 35 of 2025 constitutes a valid ground for recusal;
 - b. Whether the allegations made against the presiding Judge meet the threshold of reasonable apprehension of bias as recognized in law; and



- c. Whether the application amounts to an abuse of the court process or is otherwise intended to undermine judicial independence.
42. Rule 21 of the Judicial Service (Code of Conduct and Ethics) Regulations 2020 provides the grounds upon which a judge ought to recuse himself/herself from a matter as follows:
- “(1)A judge may recuse himself or herself in any proceedings in which his or her impartiality might reasonably be questioned where the judge—
- a. is a party to the proceedings;
 - b. was, or is a material witness in the matter in controversy;
 - c. has personal knowledge of disputed evidentiary facts concerning the proceedings;
 - d. has actual bias or prejudice concerning a party;
 - e. has a personal interest or is in a relationship with a person who has a personal interest in the outcome of the matter;
 - f. had previously acted as a counsel for a party in the same matter;
 - g. is precluded from hearing the matter on account of any other sufficient reason; or
 - h. or a member of the judge’s family has economic or other interest in the outcome of the matter in question.”
43. Recusal is defined in Black’s Law Dictionary, 8th ed. (2004) [p.1303] as removal of oneself as judge or policy maker in a particular matter especially because of a conflict of interest. The objective of recusal was articulated by the Supreme Court in *Jasbir Singh Rai & 3 Others vs Tarlochan Singh Rai & 4 Others* [2013] eKLR, as ensuring that justice between the parties is uncompromised; that due process is realized, and seen to be done; and that the integrity of the rule of law remains intact.
44. In above case, the Supreme Court articulated the applicable test as follows:
- “[T]he test for establishing a Judge’s impartiality is the perception of a reasonable person, this being a “well-informed, thoughtful observer who understands all the facts,” and who has “examined the record and the law”; and thus, “unsubstantiated suspicion of personal bias or prejudice” will not suffice.”
45. This is the same test articulated in the Commentaries on the Bangalore Principles of Judicial Conduct, which, at paragraph 81 postulates that:
- “The generally accepted criterion for disqualification is the reasonable apprehension of bias. Different formulae have been applied to determine whether there is an apprehension of bias or prejudgment. These have ranged from “a high probability” of bias to “a real likelihood”, “a substantial possibility”, and “a reasonable suspicion” of bias. The apprehension of bias must be a reasonable one, held by reasonable, fair minded and informed persons, who apply themselves to the question and obtain the required information. The test is “what would such a person, viewing the matter realistically and practically – and having thought the



matter through – conclude? Would such person think that it is more likely than not that the judge, whether consciously or unconsciously, would not decide fairly.”

46. The Apex Court in *Kibisu vs Republic* [2018] KESC 34 (KLR) reaffirmed the principles stated in *Republic vs Mwalulu & 8 others*: [2005] 1 KLR as later cited by the Court of Appeal in *Nathan Obwana vs Robert Bisakaya Wanyera & 2 others* [2013] KEHC 647 (KLR) as follows:

- i. When the courts are faced with such proceedings for the disqualification of a judge, it is necessary to consider whether there is a reasonable ground for assuming the possibility of a bias and whether it is likely to produce in the minds of the public at large a reasonable doubt about the fairness of the administration of justice. The test is objective and the facts constituting bias must be specifically alleged and established.
- ii. In such cases the Court must carefully scrutinize the affidavits on either side, remembering that when some litigants lose their case they are unable or unwilling to see the correctness of the verdict and are apt to attribute that verdict to a bias in the mind of the Judge, Magistrate or Tribunal.
- iii. The Court dealing with the issue of disqualification is not, indeed it cannot, go into the question of whether the officer is or will be actually biased. All the Court can do is to carefully examine the facts which are alleged to show bias and from those facts draw an inference, as any reasonable and fair-minded person would do, that the judge is biased or is likely to be biased.
- iv. The single fact that a judge has sat on many cases involving one party cannot be sufficient reason for that judge to disqualify himself. The fact that Tunoi, JA had sat on many cases involving the Goldenberg Affair, without anything more, was absolutely no good reason for him to disqualify himself.”

47. The present application is premised on the filing of JSC No. 35 of 2025 before the Judicial Service Commission. The 3rd Respondent contends that the existence of this complaint, has created apprehension that the outcome of this matter is predetermined in favour of the 2nd Petitioner.

48. It is further asserted that one of the grounds in the JSC Petition concerns a ruling delivered by this Court in which a replying affidavit was allegedly considered without leave of Court.

49. A complaint lodged before the Judicial Service Commission, by itself, does not constitute a valid ground for recusal. As Mativo J observed in *National Water Conservation & Pipeline Corporation vs Runji & Partners Consulting Engineers & Planners Limited* [2021] KEHC 4165 (KLR) noted as follows:

“Strongly-worded personal attacks against adjudicators do not by themselves constitute appropriate grounds for recusal. Neither do threats or complaints to the Judicial Service Commission all designed ‘to force recusal and manipulate the judicial system, rather than arising from actual malice. If such threats, personal attacks to judges or even complaints to the Judicial Service Commission were to constitute a recusal of a judge a dishonest, vexatious or disgruntled litigant would: -

“readily manipulate the system, threatening every jurist assigned on the ‘wheel’ until the defendant gets a judge he preferred. Also, the defendant could force delays, perhaps making the cases against him more difficult to try, perhaps putting witnesses at greater risk. Such blatant manipulation would subvert our



processes, undermine our notions of fair play and justice, and damage the public's perception of the judiciary.”

50. This principle has been echoed across jurisdictions, emphasizing that courts must resist attempts to engineer bias through vexatious complaints or external pressure.

51. A complaint made to the Judicial Service Commission under Article 168 of the *Constitution* must first undergo appraisal and, if merited, lead to the formation of a Tribunal by the President. Until such inquiry and determination, a complaint remains an untested allegation incapable of forming a basis for judicial disqualification. As stated in *Kalpana H. Rawal vs Judicial Service Commission & 2 Others* [2016] eKLR:

“It cannot be gainsaid that the Applicant bears the duty of establishing the facts upon which the inference is to be drawn that a fair minded and informed observer will conclude that the Judge is biased. It is not enough to just make a bare allegation. Reasonable grounds must be presented from which an inference of bias may be drawn...”

52. Beyond the filing of the complaint, the Applicants have failed to demonstrate any cogent or reasonable basis upon which this Court's impartiality may be called into question. Mere allegations, unaccompanied by facts and evidence, cannot sustain an application for recusal.

53. It must be emphasized that every Judge has a constitutional duty to sit in matters duly allocated to them. The Supreme Court in *Gladys Boss Shollei vs Judicial Service Commission & another* [2018] eKLR extrapolated on the duty of a judge to sit as follows:

“Tied to the constitutional argument above, is the doctrine of the duty of a judge to sit. Though not profound in our jurisdiction, every judge has a duty to sit, in a matter which he duly should sit. So that recusal should not be used to cripple a judge from sitting to hear a matter. This duty to sit is buttressed by the fact that every judge takes an oath of office: “to serve impartially; and to protect, administer and defend the *Constitution*.” It is a doctrine that recognizes that having taken the oath of office, a judge is capable of rising above any prejudices, save for those rare cases when he has to recuse himself. The doctrine also safeguards the parties' right to have their cases heard and determined before a court of law.

In respect of this doctrine of a judge's duty to sit, Justice Rolston F. Nelson; of the Caribbean Court of Justice in his treatise – “Judicial Continuing Education Workshop: Recusal, Contempt of Court and Judicial Ethics; May 4, 2012; observed:

“A judge who has to decide an issue of self-recusal has to do a balancing exercise. On the one hand, the judge must consider that self-recusal aims at maintaining the appearance of impartiality and instilling public confidence in the administration of justice. On the other hand, a judge has a duty to sit in the cases assigned to him or her and may only refuse to hear a case for an extremely good reason”

54. This position was affirmed by the Court of Appeal in *Kalpana H. Rawal vs Judicial Service Commission and 2 Others* [2016] eKLR which set out the test for bias as follows:

“We think the objective test of reasonable apprehension is good law. The test is stated variously, but amounts to this: do the circumstances give raise to a reasonable apprehension,



in the mind of the reasonable fair minded and informed member of the public that the Judge did not (will not) apply his mind to the case impartially “needless to say.”

55. The 3rd Respondent’s further contention is that this Court should recuse itself on account of a previous ruling limited stay orders. The Applicant herein was not a party in those proceedings. In any event, if any of the parties was dissatisfied with that determination, the aggrieved party ought to have appealed or sought review within the prescribed timelines, and not to ask for the recusal of the Judge.
56. The issue of recusal based on previous judicial decisions was settled in Saad Yusuf Saad vs Independent Electoral and Boundaries Commission (IEBC) & 2 others [2017] eKLR where the Court, citing Locabail (UK) Ltd vs Bayfield Properties Ltd [2000] 1 All ER 65, held that a previous judicial decision cannot by itself be a basis for disqualification.
57. To hold otherwise would invite forum shopping, result in conflicting decisions, and erode public confidence in the impartiality and consistency of the judiciary. It stated:

“Should a Judge recuse herself on the basis of a previous decision? This issue was considered in the case of Locabail (UK) Ltd v Bayfield Properties Ltd & Another; 2000 1 All ER 65 where the Court of Appeal in England listed inter alia previous judicial decisions as some of the factors upon which an objection to a judge hearing a case may not be raised.

32. Closer home, in the case of Republic v Independent Electoral & Boundaries Commission & another Exparte Coalition For Reforms and Democracy (CORD) [2017] eKLR, the facts of which are on all fours with the case at hand, the applicant therein sought to have the matter heard by another Judge because of a previous decision made by the Judge in a similar matter. Odunga, J. Court set out the submissions of the applicant’s counsel thus:

“Learned counsel was however quick to point out that in his view the judgement was well-reasoned but stated that whether his clients agree with the same is another matter altogether. It was however submitted that the issues in the instant application are in pari materia to the issues in the said earlier proceedings and in learned counsel’s view, it is improbable that this Court may arrive at a different decision. It was therefore learned counsel’s view that having expressed itself as it did, this Court should let another Judge have another look at the matters with afresh mind.”

In the present case, the Applicant has made the exact assertion that it is unlikely that the Hon. Judge will arrive at a different decision than that in Petition No. 9. As such the Applicant sought to have another Judge with a fresh mind hear the Petition. In his finding, Odunga, J expressed himself thus:

“To seek the recusal of a Judge from hearing a matter simply on the ground that he has determined a matter with similar facts is an implication that there is a likelihood that another Judge will arrive at a different decision. In my view, instead of subjecting another Judge of concurrent jurisdiction to an embarrassing situation of arriving at a different decision, parties ought to be advised by their legal counsel to appeal the decision instead and the law provides for mechanism for protection of a party while it is pursuing an appeal. By asking another Judge to hear the matter, based on recusal there would be an expectation that that



other Judge may arrive at a decision different from the decision arrived at by the Court referring the matter. Whereas a Judge of the High Court is not bound by a decision of a Court of concurrent jurisdiction, to deliberately set out to have another Judge arrive at a different decision is in my view a manifestation of bad faith. If the matter were to be heard by a different Judge of concurrent jurisdiction and a different decision is arrived at there would be two conflicting decisions of the Court and the perception created would be that the Respondent chose a Judge who was sympathetic to its cause. If that were to happen the citizens of this Country would be led to believe that justice depends on a particular Judge rather than the rule of law and that belief would bring the whole judicial process into disrepute and embarrassment.”

58. For the avoidance of doubt, these court is not a party to the cited proceedings, nor has it acted as counsel for any of the parties, or acted without jurisdiction. The court possesses no personal knowledge of disputed evidentiary facts, holds no bias or prejudice, and neither has it, nor any person closely associated with, had any interest in the outcome of the impugned proceedings.
59. In the result, I find no sufficient cause to warrant my recusal. The application lacks merit and appears calculated to delay or otherwise interfere with the orderly administration of justice. There is therefore nothing in the interest of justice or fairness to persuade this Court to recuse itself.
60. Ultimately, public confidence in the judiciary is not preserved by the routine applications for recusal of judges upon unsubstantiated fears, but by judges who discharge their constitutional mandate faithfully, impartially, and with fidelity to their oath of office. To recuse without lawful cause would amount to an abdication of judicial duty. This Court therefore remains seized of the matter and shall proceed to hear and determine it on its merits.
61. The Notice of Motion dated 23rd May 2025 is accordingly dismissed with costs.

DATED, SIGNED AND DELIVERED VIRTUALLY IN NAIROBI THIS 23RD DAY OF OCTOBER, 2025.

O. A. ANGOTE

JUDGE

In the presence of;

Mr. Ouma for Petitioner

Mr. Wachira for 3rd Respondent

Mr. Allan Kamau for 1st, 2nd and 4th Interested party

Ms Nyaga for Okatch for 1st and 2nd Respondents and 5th Interested Party

Court Assistant: Tracy

