



Muka v Mungai, Chairperson Kafucouncil & 3 others; Nandi & 3 others (Interested Parties) (Employment and Labour Relations Cause E103 of 2025) [2025] KEELRC 3095 (KLR) (7 November 2025) (Ruling)

Neutral citation: [2025] KEELRC 3095 (KLR)

REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
EMPLOYMENT AND LABOUR RELATIONS CAUSE E103 OF 2025
HS WASILWA, J
NOVEMBER 7, 2025

BETWEEN

FRED MUKA PETITIONER

AND

DR BERNADETTE MUNGAI, CHAIRPERSON KAFUCOUNCIL 1ST RESPONDENT

THE CABINET SECRETARY, MINISTRY OF EDUCATION . 2ND RESPONDENT

PROF PETER NYAMUHANGA MWITA 3RD RESPONDENT

THE HON ATTORNEY GENERAL 4TH RESPONDENT

AND

PROFESSOR OGODO NANDI INTERESTED PARTY

STEPHEN CHAHASI LUMWAJI INTERESTED PARTY

PROF MARY O ABUKUTSA ONYANGO INTERESTED PARTY

SIMON SHIMEKHA INDASI INTERESTED PARTY

RULING

1. The 2nd Interested Party/Applicant filed a Notice of Motion dated 21st October 2025 seeking orders that: -
 1. Spent
 2. an interim order be and is hereby issued restraining the 3rd Respondent Prof Peter Nyamuhanga Mwita whether by himself, his agents, employees, or any other person acting



under his authority from presiding over, convening approving, signing certificates, issuing academic awards, participating in or in any way facilitating the graduation ceremony of Kaimosi Friends University scheduled for 19th November 2025 or a date thereafter pending further directions of this Honourable court.

3. an interim order be and is hereby issued directing the Cabinet Secretary, Ministry Of Education, in consultation with the Public Service Commission, to identify and appoint a qualified and neutral senior academic officer to serve as acting Vice Chancellor of Kaimosi Friends University for the limited and urgent purpose of presiding over the said graduation ceremony and undertaking necessary academic and administrative functions strictly related thereto and pending hearing and determination of the petition herein.
4. an interim order be and is hereby issued restraining the Cabinet Secretary Ministry of Education, the Public Service Commission or any other government agency or officer from appointing, reappointing, confirming, reinstating, regularizing or otherwise enabling the 3rd Respondent Prof Peter Nyamuhanga Mwitwa to act or serve as vice Chancellor of Kaimosi friends University in any capacity whatsoever pending the hearing and determination of the petitions dated 23rd and 29th May 2025
5. an order be and is hereby issued directing the Cabinet Secretary ministry of Education to forthwith constitute the Council of Kaimosi Friends University in accordance with the [Universities Act](#) 2012, and ensure that such council is lawfully mandated to undertake all urgent and necessary governance functions including the appointment of a qualified Acting Vice Chancellor in compliance with the existing orders and the applicable law
6. a conservatory order be and is hereby issued restraining the Respondents, their agents, servants or any persons acting under their instructions, from authorizing, facilitating, conducting or proceeding with the said graduation ceremony in any manner that involves the 3rd respondent or any other person whose appointment is in violation of existing Court Orders or legal provisions.
7. this Honourable Court do issue an order restraining the Respondents or any officer purporting to act under their direction from taking any retaliatory action, administrative sanction, denial of graduation or discriminatory treatment against any student (s) of Kaimosi Friends University on account of these proceedings or their association with any party herein pending the hearing and determinations
8. this Honourable Court do issue an order restraining the Respondents or any other administrative officer from intimidating, victimising, or taking retaliatory action against any student, staff member, or whistle-blower who questions the legitimacy of the graduation or the current leadership, pending the hearing and determination of these proceedings
9. the officer commanding station (OCS) Cheptulu police station, or the officer having jurisdiction over Kaimosi Friends University be and is hereby directed to enforce strict compliance with these orders, including by providing security and preventing any graduation activity facilitated or presided over by the 3rd Respondent or any other unauthorized person.
10. any officer or person who proceeds with authorizes, facilitates, or participates in the said graduation ceremony in defiance of existing or future Court orders be summoned to appear before these honourable court to show cause why contempt of court proceedings should not be commenced against them personally.



11. the court grants leave to the applicant to enjoin, for purposes of this application only the following institutions in addition to respondents or interested parties to enhance enforcement, oversight and protection of public interest
 - i. Prof Stanley Khaenga, Chairperson Kaimosi Friends University Council
 - ii. Public Service Commission(PSC)
 - iii. Commission for University Education (CUE)
 - iv. The Honourable Attorney General
 - v. Law Society of Kenya (LSK)
 - vi. Kenya National Commission on Human Rights (KNCHR)
 - vii. Kenya University Students Organization (KUSO)
 - viii. Kaimosi Friends University Students Association (KAFUSA)
 - ix. Kaimosi Friends University Alumni Association
 - x. Office of Auditor General
12. That this application be heard and determined on a priority basis and/or concurrently with ELRC petition dated 23rd and 29th May 2025 as it raises urgent and narrowly tailored questions that directly affect the rights and welfare of students, the integrity and academic awards and the authority of this honourable Court.
13. the costs of this application be provided for.

2nd Interested Party/Applicant's Case

2. The application is based on the grounds set out on the face of the Notice of Motion Application and in the supporting Affidavit of Stephen Chahasi Lumwaji a public interest litigator and the 2nd Interested party sworn on 21st October 2025.
3. The grounds advanced on the face of the application and the supporting Affidavit arise from the reliefs sought in the main petition.
4. The Applicant avers that the graduation is scheduled to proceed under an illegal Vice Chancellor whose appointment is under active challenge and judicial suspension which will unjustly subject students to a legal and uncertainty and they risk having their degrees invalidated and the students stand to suffer irreparable academic harm.
5. The Applicant avers that there is no stay, suspension or status quo order in force that prohibits or overrides the valid and subsisting decision of this court including the judgment delivered on the 19th December 2024 by Nduma Nderi J and the interim orders issued on 23rd and 29th May 2025.
6. The Applicant avers that any conditional stay by the Court of Appeal dated 4th July 2025 have lapsed and no formal appeal is pending or active.
7. The Applicant contends that the continuance defiance of the court orders constitutes a grave affront of the rule of law and judicial authority and the conduct of the respondents amounts to contempt of court.



8. The Applicant avers that unless the defiance is restrained about 500 students will suffer irreparable harm and the public interest, rule of law and integrity of the Kenya's higher education system are gravely threatened.
9. It is the Applicant's case that the Students of Kaimosi Friends University at a real and immediate risk of being selectively denied graduation or subjected to administrative punishment or exclusion by an impugned leadership acting in defiance of court orders and the application is intended to shield them from victimization and protect the integrity of academic process and ensure their right and fair administrative action and equal treatment under Articles 27, 41, 47 and 53 of *the constitution* are protected.

1st Respondent's Case

10. In opposition to the Application, the 1st Respondent filed grounds of opposition on the following grounds:
 1. The Court lacks jurisdiction to hear and determine the Application on the basis of live proceedings on the substratum of the Application, the recruitment of a Vice-Chancellor before the Court of Appeal in Nairobi Civil Application No. E 010 of 2025 and Civil Application E028 of 2025 (consolidated). Further the 2nd Interested party in his application does not demonstrate any labour or employment matter to be addressed by this Court except seeking, to disrupt a graduation ceremony that is not party to either by Law or action
 2. The Application is founded on deliberate misstatements. The claim that the 3rd Respondent intends to preside over the conferment of degrees is false. Under Sections 20(1) and 38(3)(a) of the *Universities Act*, 2012 and the Kaimosi Friends University Charter, that function lies exclusively with the Chancellor.
 3. The Applicant's contention that "no active appeal or stay orders exist" is misleading. The Court of Appeal, in Civil Application Nos. E010 and E028 of 2025, expressly ordered that the status quo regarding the office of the Vice Chancellor of Kaimosi Friends University be maintained pending determination of the appeals. Those orders are valid, subsisting, and binding upon this Honourable Court.
 4. Granting the prayers sought would effectively amount to sitting on appeal over the decisions of the Court of Appeal, contrary to the principle of judicial hierarchy and comity.
 5. The issues raised in the instant Application are already pending before this Honourable Court and have been addressed in other proceedings before competent courts, including Kakamega HCPET E004 of 2025 and Nairobi ELRC PET E014 of 2024. This Application is therefore res Judicata and sub judice.
 6. The 3rd Respondent lawfully continues to serve as Vice Chancellor under valid judicial and administrative authority. The University remains under legitimate governance, and the functions of the Council have not been suspended or revoked.
 7. There exists no valid court order barring either the 1st or 3rd Respondent from performing their lawful duties. Allegations of contempt are baseless and unsupported by evidence.
 8. The 2nd Interested Party lacks locus standi to bring this Application, not being an employee, student, or member of the University Council. His purported public interest capacity is contrived and legally untenable.



9. The Application invites the Court to usurp the statutory powers of the Cabinet Secretary for Education, Public Service Commission, and University Council, contrary to *the Constitution* and the *Universities Act*.
 1. University processes—such as graduation—are matters of academic judgment and internal governance. Courts should exercise restraint and avoid disrupting legitimate institutional processes absent clear illegality.
 2. The Application is frivolous, vexatious, and a clear abuse of the court process. It seeks to paralyze lawful university functions and should be dismissed with costs.
11. The 1st Respondent further filed a replying affidavit dated 24th October 2025 sworn by its current Chairperson, Prof. Stanley Khainga.
12. The 1st Respondent avers that the 2nd Interested party in his application does not demonstrate any labour or employment matter to be addressed by this Court except seeking, to disrupt a graduation ceremony that is not party to either by law or action.
13. It contends that the allegations that the 3rd Respondent intends to preside over the graduation ceremony and confer degrees are false and misleading. Pursuant to Sections 20(1) and 38(3)(a) of the *Universities Act*, 2012 and the University Charter, the Chancellor is the only lawful officer mandated to preside over graduation and confer degrees and the graduation scheduled for 19th November 2025 will be presided over by the Chancellor, in full compliance with the law.
14. The 1st Respondent avers that the Court of Appeal, in Civil Application Nos. E010 and E028 of 2025, issued valid orders maintaining the status quo regarding the Vice Chancellor’s office pending appeal. The Council has complied fully with those directives.
15. The 1st Respondent avers that the Council continues to perform its statutory mandate lawfully under the *Universities Act*, 2012, including oversight of academic, administrative, and financial operations. Thus, the allegation that the University lacks a functioning Council is entirely false as there is a Council duly appointed.
16. The 1st Respondent avers that the 3rd Respondent continues to discharge his duties as Vice Chancellor lawfully, under the prevailing Court of Appeal orders maintaining status quo and the doctrine of institutional continuity.
17. It is the 1st Respondent’s case that the Application improperly invites this Court to assume powers reserved by statute for the Cabinet Secretary and the Public Service Commission under Sections 35 and 39 of the *Universities Act*, which is impermissible.
18. Additionally, halting the graduation ceremony would unjustly punish innocent students who have completed their academic programmes and are awaiting conferment of their degrees. It would violate their constitutional right to education and fair administrative action under Articles 43 and 47 of *the Constitution*.
19. The 1st Respondent avers that the Application is sub judice and res judicata, the same issues having been litigated in ELRC PET E014 Of 2024, HCCHRPET E006 of 2025, and HCPET E004 of 2025 at Kakamega.
20. The 1st Respondent avers that the 2nd Interested Party lacks the requisite locus standi, having no employment, contractual, or academic relationship with Kaimosi Friends University. His purported



public interest claim is speculative and abusive of judicial process. Further, he has not demonstrated basis for the joinder of other parties within the defined parameters for exercise of discretion.

21. The 1st Respondent avers that there is pending before this Court an Application for Mootness dated 21st July 2025 reserved for ruling on 6th November 2025.
22. It further contends that the allegation of open contempt of court is unfounded and sub judice by dint of the Application dated 16th June 2025.

2nd and 4th Respondent's Case

23. In opposition to the Application, the 2nd and 4th Respondent filed grounds of opposition dated 27th October 2025 based on the following grounds:
 1. The application is an abuse of court process as the Applicant is seriously forum shopping and hounding to obtain a favourable decision by chance, the application seeks to reopen and relitigate issues already determined or pending in the main Petition (ELRC Petition No. E103 of 2025) and related proceedings, without seeking leave of court or demonstrating new factual circumstances. The application purely seeks to pre-empt the court ruling and decision pending delivery on 6th November, 2025 or thereabout.
 2. The prayers sought are substantially similar to interim reliefs already canvassed, determined, or subsumed within earlier rulings and interlocutory applications filed between May and July 2025, rendering the present motion duplicative, unnecessary, and procedurally improper.
 3. The Court of Appeal issued orders in regard to the issues being canvassed before this court rendering the substantive petition herein moot and there is no pending issue for determination herein.
 4. The Honourable Court cannot be called upon to issue orders directing State officers to carry out their mandate without demonstration by the Applicant that the state officers have failed in their duties.
 5. The organization and conduct of graduation ceremonies are functions of the University Senate and Council, under Sections 35 and 37 of the *Universities Act*. The Cabinet Secretary cannot lawfully interfere or unilaterally appoint a presiding officer for such academic functions, as the Applicant erroneously urges.
 6. The orders sought cannot issue in the circumstances as the 2nd Respondent's role under the *Universities Act*, 2012 is limited to policy, oversight, and facilitation, not day-to-day management of individual universities or their graduation ceremonies, the court issuing any of the orders would be overstepping its mandate and descending into the arena of litigants.
 7. The application seeks orders against non-parties including the Officer Commanding Station, Cheptulu Police Station and further seeks to other unknown persons under order 11. It would only be fair and just that the Court strikes out the application in its entirety as it offends clear Constitutional provisions inter alia Article 47 of fair administrative action and Article 50 on fair hearing.
 8. That grant of orders sought would override the great public interest leading to suspension of an entire graduation process affecting hundreds of students who have lawfully completed their studies, based on unverified allegations and personal grievances being fronted by an alleged public interest litigant.



9. The 2nd Respondent's priority remains to protect the students' academic progression, uphold the integrity of higher education, and respect ongoing judicial processes and granting the orders sought would effectively paralyse the University, prejudice students' rights under Articles 43(1)(f) and 55.
10. That the Applicant is abusing the Court process, he is a mere Interested Party who has clearly not demonstrated any identifiable stake or legal interest or duty in the proceedings before the court and his role is limited to his position and cannot purport to take over the proceedings as the petitioner.
11. The Application is frivolous, vexatious, and speculative, intended to attract publicity rather than genuine protection of constitutional rights.
12. The Applicant has failed to meet the threshold for grant of conservatory relief as set out in *Gatirau Peter Munya v Dickson Mwenda Kithinji & 2 others* [2014] eKLR, which requires demonstration of a prima facie case, imminent danger, and proportionality, and it would be in the great public interest the application dated 21st October, 2025 be dismissed in its entirety.

3rd Respondent's Case

24. In response to the Application the 3rd Respondent filed a replying affidavit sworn on 22nd October 2025.
25. The 3rd Respondent avers that the petition and all its applications and orders are beyond this court's jurisdiction, and are moot on the premises that the issue of the management of the university, its leadership, and especially the handling of the office of the Vice Chancellor [VC] are plainly in suits filed prior to this petition and also are directly and substantially in the hands of the Court of Appeal in two cases namely;- Nairobi Court of Appeal application No. E010 of 2025 *The Cabinet Secretary, Ministry of Education and 2 others versus Prof. Manyasa J.O. Nandi & Another* where orders were made on 25th March 2025; and Nairobi Court Appeal No. E028 of 2025 *Onyango v Nandi & 3 others* (Civil Application E028 of 2025) [2025] KECA 1190 (KLR) where orders were made on 4th July 2025.
26. The 3rd Respondent avers that the Court of Appeal in Civil Appeal Application No. E028 of 2025 *Onyango v Nandi & 3 others* (Civil Application E028 of 2025) [2025] KECA 1190 (KLR) in its Ruling, made on 4th July 2025 stated that;

“..... we note that both the applicant and 1st Respondent have raised the issue of the role of, and nature of participation of the relevant Cabinet Secretary in the process of appointment of a vice chancellor of a public university under the provisions of the *Universities Act*, 2012. We are satisfied that this is an arguable point.”

“12. We are accordingly of the view that it is in the public interest that there is a lacuna in the office of Vice Chancellor of Kaimosi Friends University and that the issues raised in the intended appeal are determined with dispatch. We accordingly order as follows:

1. The status quo currently obtaining as regards the office of the Vice Chancellor of Kaimosi Friends University shall be maintained pending the hearing and determination of the applicant's intended appeal, and neither the applicant nor 1st respondent shall be appointed as Vice Chancellor of Kaimosi Friends University during that period.”



27. In Civil Application E010 of 2025, The Cabinet Secretary, Ministry of Education and 2 others versus Prof. Manyasa J.O. Nandi & Another, the Court of Appeal on 25th March 2025 stated that;-

“In view of the fact that there is another related matter, Civil Application No. E028 of 2025, that has already been argued before another bench and is coming up for ruling on 6th June 2025, it is hereby agreed by consent that the status quo in so far as the operations and leadership of Kaimosi Friends University is concerned, shall be maintained until the said ruling is delivered. Similarly, the proceedings before the ELRC are also stayed until then.”

28. On 6th August 2025 that;-

“Mr. Eredi, the learned Chief State Counsel appearing for the 18th and 2nd applicants informs us that a related application namely Civil Application No. E028 of 2025 was heard between the parties and the ruling was delivered on 4th July 2025. That ruling ordered that the status quo as regards the Office of Vice Chancellor of Kaimosi Friends University (the 3rd applicant) shall be maintained, and that neither of the respondents herein shall be appointed pending the hearing and determination of the intended appeal. In the result, the learned counsel requests that the same order do apply to this matter before us.

Dr. Oloo, learned counsel for the 1 Respondent, and Ms. Amutavi, learned counsel holding brief for Mr.Okatch for the 1st Respondent are not opposed to the press order.

The said order of status quo shall apply to this We direct matter further that the applicants shall file and serve their record of appeal within 30 days of today, and that the matter shall thereafter be listed for Case Management, together with the appeal filed by the appellants/ applicants in Civil Application No. E028 of 2025.

Thereafter the matter shall be heard as consolidated appeals. Costs of this motion shall be in the intended appeal.”

29. The 3rd Respondent avers that the the Applicant’s assertion that “no appeal is pending or active”/ Stay of Orders is false and misleading. On 6th August 2025, the Court of Appeal issued orders in Civil Application No. E028 of 2025, consolidating related proceedings and expressly directing that the status quo with regard to the office of the Vice Chancellor of Kaimosi Friends University be maintained pending determination of the intended appeal.

30. The 3rd Respondent further avers that the High Court of Kenya at Kakamega (Constitutional & Human Rights Division), being a court of competent jurisdiction under Article 165(3)(b) & (d) of *the Constitution*, in the matter: HCPET (Constitutional Petition) No. E004 of 2025, Simon Indasi Shimekha v Council of Kaimosi Friends University & 6 Others on 6th February 2025 issued conservatory / stay of execution orders staying and/or suspending the execution and enforcement of the ELRC Judgment (ELRC Petition No. E014 of 2024, Prof. Manyasa J. O. Nandi v Ezekiel Machogu, Cabinet Secretary & 3 Others) pending hearing and determination of the Kakamega Petition.

31. The 3rd Respondent avers that if the prayers sought are granted, it would amount to this court sitting on Appeal and or conducting a review of the Court of Appeal orders of 4th July 2025, 25th March 2025 and 6th August 2025.

32. It is the 3rd Respondent’s case that the application lacks legal standing or authority to interpret, vary, or declare those appellate or superior court orders “spent” or “lapsed”, and his assertions are without



- legal foundation; and that any reference to a “suspension” or “vacation of office” is misrepresentation of ongoing appellate processes, and the Applicant has deliberately misinterpreted the plain orders of the Court of Appeal, and omitted full context of the court record.
33. The 3rd Respondent avers that all the matters raised herein were already raised and addressed in this petition including the application to cite for contempt dated 16th June 2025. All these matters are pending for ruling on 6th November 2025.
 34. The 3rd Respondent avers that all issues raised have been addressed in suits filed previous to this case, hence are Res-Judicata. These suits include;- Nairobi ELRCPET/E014/2024 Prof. Manyasa Nandi Versus Cabinet Secretary, Ministry of Education and (3) others; Court of Appeal Nairobi Civil Application E010 of 2025 The Cabinet Secretary, Ministry of Education and 2 others versus Prof. Manyasa J.O. Nandi & Another; Court of Appeal Nairobi Civil Appeal No E028 of 2025; Kakamega ELRCPET/E014/2024 Prof. Manyasa Nandi Versus Cabinet Secretary, Ministry of Education and (3) others; Nairobi HCCHRPET/E006/2025 Stephen Chahasi Lumwaji Vs Kaimosi Friends University and Dr. Bernadette Mungai and 3 others; and Kakamega ELRC No.E004 of 2025 Mr.Simon I Shimeka vs Council of University and 6 others.
 35. The 3rd Respondent avers that pursuant to Section 20(1) of the Universities Act, 2012, and Section 12 of the Charter of Kaimosi Friends University, the function of presiding over graduation ceremonies and conferring degrees, diplomas and certificates is vested in the Chancellor, and not in the Vice Chancellor.
 36. The 3rd Respondent avers that the planned graduation ceremony will be presided over by the Chancellor, in accordance with the law, and therefore, the attempt to stop it on the mistaken premise that he would confer degrees personally is fatally defective.
 37. The 3rd Respondent avers that the conferral of degrees is an academic process governed by Senate resolutions and examination results, not subject to arbitrary judicial interference unless illegality is shown.
 38. It is the 3rd Respondent’s case that judicial restraint is warranted to protect the autonomy, continuity, and integrity of public universities under Section 4 of the Universities Act, 2012; and that the greater public interest lies in allowing the University to operate lawfully and proceed with the graduation ceremony as scheduled.
 39. The 3rd Respondent avers that court in law does not have powers to take away, unto itself the discretion given to Cabinet Secretary Education and the Public Service Commission [PSC], to decide on who, and or who not to appoint and or install as a Vice Chancellor. Further the University council conferred powers to recommend a Vice Chancellor has not been enjoined to the suit.
 40. The 3rd Respondent avers that this court’s orders of 29th May 2025 did not and do not stay his service as the Vice Chancellor; it merely sought to stop substantive appointment as the Vice Chancellor.
 41. He avers that this position has now in any event been overtaken by the Court of Appeal orders of 4th July 2025, 25th March 2025 and 6th August 2025.
 42. It is the 3rd Respondent’s case that this court’s order of 29th May 2025 only stopped the implementation of the appointment contained in the circular/memo dated 14th May 2025. It did not stay or reverse his functioning as the Vice Chancellor based on the appointment made on 19th February 2024, which has since been extended by Kaimosi Friends University. He continues to serve lawfully as Vice Chancellor of Kaimosi Friends University under the Universities Act, 2012, and by virtue of valid judicial and administrative directives pending appeal.



43. The 3rd Respondent avers that contrary to the Applicant's false assertions, the University Council of Kaimosi Friends University is duly constituted, gazetted, and operational, performing its statutory duties under the Universities Act.
44. I have examined all the averments and submissions of the parties herein. The issue before court is disobedience of court orders as per the order of this court of 29/5/2025 where this court made orders to the effect that the decision of the 1st respondent conveying the appointment of the 3rd as the VC of Kaimosi University dated 14/5/2025 be stayed. It is also true that the respondents had knowledge of this order as confirmed on 12/6/2025 and extended accordingly. Other than this position, this court was informed that the Court of Appeal had in its orders of 4th July 2025 ordered that:
- “the status quo currently obtaining as the Vice Chancellor of Kaimosi Friends University shall be maintained pending the hearing and determination of the applicants intended appeal and neither the applicant nor the 1st respondent shall be appointed as VC of Kaimosi University during that period”
45. The Court of Appeal at para 11 of the ruling noted as follows
- “in the present application, it is notable that neither the applicant nor the 1st respondent are yet to take office and upon inquiry as regards the status, we were informed that there is an acting Vice Chancellor who has been appointed to take the duties of the office”.
46. It is upon this understanding that the Court of appeal granted status quo orders. What was the status quo order pertaining at 29/5/2025?. Indeed due to orders of this court the directive to appoint the 3rd respondent as VC at Kaimosi University was suspended. He remained in acting position and not as a substantive holder of the office of VC. These orders were confirmed by the Court of Appeal.
47. This court has been informed that contrary to these orders and those of the Court of Appeal as mentioned above, the respondents have appointed the 3rd respondent as VC. The respondents on their part aver that they appointed the 3rd respondent as VC following directions of the Public Service Commission. The respondents also aver that this court has no jurisdiction to handle this matter considering the Court of Appeal directive in CA NO E028/2025 which suspended proceedings before the ELRC court.
48. I have looked at the ruling of the Court of Appeal dated 4/7/2025 where the Court of Appeal was ceased with the appeal emanating from another application in ELRC petition no E014 of 2024 (J.Nderi) and that Court of Appeal determined that the appeal was arguable and merited and granted an order of stay of proceeding in the ELRC court.
49. The court of Appeal was not specific in which ELRC matter proceedings were stayed. However given that the Court of Appeal is rightfully ceased with this matter and the decision thereof has a direct bearing on this matter, it would be futile and a breach of protocol for this court to continue to entertain the application therein. I will therefore respectfully down my tools at this stage and await the Court of Appeal's consideration before any further proceedings. Costs will abide the Court of Appeal decision.

DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 7TH DAY OF NOVEMBER 2025.

HELLEN WASILWA

JUDGE

