

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT ISIOLO
CONSTITUTIONAL AND HUMAN RIGHTS DIVISION

PETITION NO E007 OF 2025
IN THE MATTER OF ARTICLES
1,2,10,22,23,73,174,185,196,201,203,207 AND 259
OF THE CONSTITUTION OF KENYA

IN THE MATTER OF ALLEGED CONTRAVENTION OF
FUNDAMENTAL RIGHTS AND FREEDOMS UNDER
ARTICLES 10,47,174,185 AND 196 OF THE
CONSTITUTION OF KENYA;

AND

IN THE MATTER OF THE ISIOLO COUNTY
APPROPRIATION ACT,2025

BETWEEN

MOHAMED ROBA KOTO, SPEAKER, COUNTY ASSEMBLY OF
ISIOLO.....
.....1ST PETITIONER

SALESIO KIAMBI, MEMBER, COUNTY ASSEMBLY- WABERA
WARD.....
.....2ND PETITIONER

PETER LOSU ,MEMBER, COUNTY ASSEMBLY, NGAREMARA
WARD.....
.....3RD PETITIONER

KAMILA WARSAME, NOMINATED MEMBER, COUNTY
ASSEMBLY,
.....
....4TH PETITIONER

**ABUBAKAR ABDI GODANA, MEMBER, COUNTY ASSEMBLY,
SERICHO WARD.....**

.....
.....5TH PETITIONER

**NICHOLAS LOROT, MEMBER, COUNTY ASSEMBLY, BURAT
WARD.....**

.....
.....6TH PETITIONER

**DEKHA BONJA, NOMINATED MEMBER, COUNTY
ASSEMBLY.....**

.....
.....7TH PETITIONER

**HALIMA GOLE ABGUDO, MEMBER OF THE COUNTY
ASSEMBLY, WARD.....**

.....
.....8TH PETITIONER

**MEJJA GOLICHA, MEMBER, COUNTY ASSEMBLY, CHARI
WARD.....**

.....
.....9TH PETITIONER

**NURA MOHAMED HUKA, NOMINATED MEMBER, COUNTY
ASSEMBLY.....**

.....
.....10TH PETITIONER

VS

**THE COUNTY ASSEMBLY OF
ISILO.....1ST RESPONDENT**

DAVID LEMNANTILE, DEPUTY SPEAKER COUNTY ASSEMBLY OF ISILO.

.....**2ND RESPONDENT**

SALAD BORU CLERK, COUNTY ASSEMBLY OF ISILO.....

.....**3RD RESPONDENT**

THE ISILO COUNTY BUDGET AND APPROPRIATION COMMITTEE.....^{4TH}
RESPONDENT

ABDULLAHI JALDESA BANTICHA THE COUNTY EXECUTIVE COMMITTEE MEMBER-FINANCE.....

.....**5TH RESPONDENT**

THE ATTORNEY GENERAL

.....**6TH RESPONDENT**

AND

THE GOVERNMENT PRINTER^{1ST}
INTERESTED PARTY

MOHAMED NURA.....^{2ND}
INTERESTED PARTY

MOHAMED . A. MUDALE.....^{3RD}
INTERESTED PARTY

JOSEPH K EPUYO.....
4TH INTERESTED PARTY

ANAB
KASIM.....5TH
INTERESTED PARTY

MITHIKA LUKE
.....6TH INTERESTED
PARTY

HASSAN KUMPA.....
7TH INTERESTED PARTY

YUSSUF H JILLO.....
8TH INTERESTED PARTY

HASSAN
BALLA.....9TH
INTERESTED PARTY

KANU ALI
JILLO.....10TH
INTERESTED PARTY

ABDULLAHI B .
DIKA.....11TH INTERESTED
PARTY

ALI
DIMA.....
12TH INTERESTED PARTY

MUMINA
KONSO.....13TH
INTERESTED PARTY

ZEINAB ROBA.....
.....14TH INTERESTED PARTY

ALI
JILLO.....
15TH INTERESTED PARTY

JUDGMENT

1. The petition herein concerns the fundamental governance principles underpinning the enactment of county legislation, specifically the Isiolo County Appropriation Act, 2025 (herein after referred to as the “impugned Act”) and whether its enactment complied with the constitutional dictates of transparency, public participation, and due legislative process.
2. The impugned Act, published on 25th July 2025, sought to authorize the issue of Kenya Shillings **Seven Billion, Three Hundred and Fifty-Four Million, Seven Hundred and Sixty-Eight Thousand, Three Hundred and Sixty-Nine (kshs. 7,354,780,369)** out of the County Revenue Fund , of Isiolo county Government.
3. The Petitioners have moved this Court, vide the Petition dated 28th July 2025, seeking for the following reliefs:
 - a). *A declaration that the Isiolo County Appropriation Act, 2025 is unconstitutional, null and void for failure to comply with mandatory provisions of **Articles 10, 174, 185, 196 and 201 of the Constitution of Kenya, and the County Government Act (CGA).***

b).An Order suspending the implementation of the said Isiolo County Appropriation Act, 2025.

c). An Order directing the Respondents to conduct meaningful and proper public participation and comply with the requirements under the Constitution of Kenya, 2010.

d).An Order compelling the County Executive to resubmit budget and appropriation estimates through the Speaker of the County Assembly of Isiolo and the Budget and Appropriations Committee of the County Assembly of Isiolo.

e).Costs of the Petition.

d). Any other relief that the Court deems just and expedient.

The petitioners' case

4. The petition is supported by the Affidavit of Mohamed Roba Koto the 1st petitioner herein. It is the Petitioners' case that the impugned Act was enacted without approval by the 1st Respondent (The county Assembly/ The Assembly) , contrary to the County Assembly Standing Orders and the law; that there were no deliberations by the Finance, Budget and Appropriation committee(The Budget committee), contrary to standing order No. 190 of the county Assembly. It is further stated that there was no plenary sittings by the county Assembly to deliberate on the budget committee proposals and that this was an infringement of the constitution of Kenya (The constitution), and the County assembly procedural laws.

5. The petitioners further state that contrary to Articles 10(2) (a) and 196(1)(b) of the constitution, there was no public participation conducted prior to the enactment of the impugned Act; that the Impugned Act therefore, offends Articles 174 and 185 **of the Constitution** and the provisions of the County Government Act (CGA),Public Finance Management Act (PFMA) and the Standing Orders of the County Assembly .(The standing orders)
6. It is also the petitioners' case that contrary to the well-established position relating to legislative enactments, especially concerning public finance, the impugned Act was passed without the involvement of the county Assembly speaker. It is argued that this undermined the principles of devolution, and separation of powers.
7. In view of the foregoing , the petitioners conclude, the enactment of the impugned Act , without following substantive and procedural requirements established by the constitution and the statutes violated Articles 1,2,10,22,23,73,174,185,196, 201,203,207, and 259 of the constitution; that it constituted an unconstitutional process which ran contrary the establishment of the county Government of Isiolo under the constitution. Finally, it is stated that the mishandling of the legislative process was inconsistent with Article 10 of the constitution particularly the National values and principles of Governance .

The 1st to the 4th Respondents' Case

8. Through the Affidavit of Salad Boru Guracha, the clerk of the county Assembly, and who appears as the 2nd

respondent in the petition,, the above respondents oppose the petition. The respondents refute that the 1st petitioner is the county Assembly speaker; that pursuant to the publication of Gazette Notice No. 8667, and a court order made on 15th July 2025 by the Employment and labour relations court (ELRC) in petition No. E139 of 2025, Abdullahi Jaldesa Banticha is currently the speaker of the county Assembly .

9. The 3rd respondent states that he is responsible for the day to day running of the Assembly , and is a custodian of all its records. That in that capacity he is seized of the following :

a). that, the budget process strictly adhered to the law; that there was full compliance with Section 125 to 146 of the PFMA and Isiolo County Assembly Standing Orders.

b). The Budget Estimates for FY 2025/2026 were duly prepared, submitted and tabled before the county Assembly on 30th April 2025. That upon being tabled , the Estimates were duly committed to the Budget Committee (the 4th Respondent). That in compliance with the Constitutional requirement for public participation, the said committee invited written and oral memoranda from the public, sectoral committees and members of the County Assembly. A copy of the budget estimates has been attached to the affidavit.

c). That the Budget Committee duly processed the estimates and tabled its report before the Assembly on 17th July 2025; that the Assembly debated the budget estimates and passed it

the same day. It was then assented to by the Governor on 21/7/2025. A copy of the Hansard for 17th July 2025 is attached to the Affidavit.

10. The respondents believe that the petition is purely an attempt to disrupt the services of the county, due to the resulting fall-out of the 1st petitioner with the Governor of the county Government of Isiolo, and not by genuine constitutional or legislative concerns.

The 5th Respondent's case

11. Lucy Kagwira, who describes herself as the Acting county Executive member, in charge of Finance (CEC Finance) swore an Affidavit on behalf of the 5th Respondent.
12. She states, firstly, that contrary to the designation by the petitioners, one Abdulahi Jaldesa Banticha is not the CEC finance ; that she is the one who has been occupying that position in an acting capacity since 30th June 2025. She further states that she is well-versed with the requirement of the budgeting process of county Governments as set out under Article 224 of the constitution, and sections 125 to 146 of the PFMA. She avers that all the budgeting processes were duly complied with, right from the development of the **integrated development plan** , the submissions of the budget estimates to the Assembly, and assent by the County Governor.
13. The 5th respondent further states that in compliance with section 125(2) of PFMA , the former CEC Finance ensured that there was public participation throughout Isiolo. Attached to her Affidavit is a copy of a newspaper advertisement inviting members of the

public to participate in the exercise , and a report on the outcome of said public participation.

14. The 5th respondent urges the court not to interfere with the legislative process attendant to the budgetary process unless it has been demonstrated that critical processes have been overlooked in a manner that violates constitutional or statutory provisions.
15. The Petition is described as speculative, based on falsehoods, and an extension of political wrangles in the county , calculated to disrupt the provision of services to the people of Isiolo.
16. The matter was canvassed by way of written submissions and parties were also given a chance to highlight the key issues.

The Petitioners' Submissions

17. It is the Petitioners' submission that this Court is vested with the jurisdiction to interrogate and determine the constitutionality of the impugned Act. They further argue that this is the import of Articles 22(1), 23 and 165(3) of the constitution. Reliance is further placed on the case of ***Speaker of the Senate and another v Attorney-General & another (2013) KESC 7(KLR)*** in which the supreme court laid emphasis on the fact that, it is the work of the courts to assert the supremacy of the constitution .
18. On the presumed constitutionality of a statute, the petitioners submit that the presumption is not absolute; that no legislation is beyond judicial scrutiny, and that indeed Article 2(4) qualifies this presumption with respect to any legislation 's

consistency with the constitution. It is argued that the presumption is therefore rebuttable and nothing bars the court from declaring a statute unconstitutional, if the legislation fails to meet the constitutional principles of enactment. While laying out the constitutional and statutory requirements on the enactment of an Appropriation Act in the counties, the petitioners submit that there was no compliance with the said constitutional requirements.

19. The petitioners further submit that the budget estimates for the year 2025/2026 were never laid before the Assembly and were never processed by the Budget committee; that in terms of Article 207(2) (b) of the constitution, the expenditure of the county Government must be authorized by the County Assembly through appropriation legislation.; that this enactment must be in line with the principles of Public finance as per the provisions of Article 201 of the constitution and section 8(1)(c) of the CGA; that further a money bill like the Appropriation Bill, can only be considered and debated by the Assembly once the bill has been considered by the appropriate committee, which in this case was the Budget Committee. It is submitted that the same requirement is demanded of by section 131(2) of PFMA and standing order No. 124 and 212 of the standing orders.

20. It is the petitioners further submissions that, contrary, to the respondents' allegation, the budget estimates were never submitted to the Assembly; that some officers of the Assembly who were custodians of relevant Assembly records, have demonstrated that no such estimates were submitted. The court is referred to the Affidavits of Ali

Huka Godana and Fatuma Adan Galma both dated 22 / 8/ 2025 and one by Jarso Mohamed Golicha dated 22/8/2025.

21. It is further stated that apart from alleging that the budget estimates were laid before the Assembly on 30 /4/2025, the respondents have not produced the **Order paper, votes** and the Hansard report evidencing that the budget estimates were before the Assembly on the 30/4/2025. They argue that the respondents have not availed the documents for the simple reason that there was no placement of the estimates before the Assembly. To the contrary, the petitioners further argue, on their part, they have produced documents showing that the Assembly had no quorum on the 30th April 2025.

22. The Petitioners further contend that the budget estimates were never submitted to the Budget committee ; that as a matter of fact, the said committee never convened to consider the estimates; that no report was prepared by the same committee or laid before the Assembly; that indeed the 3rd petitioner herein, who is a member of budget committee has confirmed through his Affidavit dated 22/8/2025 that no such report was laid before the Assembly. In this regard, the court has also been referred to the Affidavit by one Ali Huka who is the principal clerk Assistant of the Assembly, another Affidavit by the Hansard Editor, one Fatuma Adan Galma, and finally, by the Assembly's Fiscal Analyst, one Jarso Mohammed Golicha, all of them sworn on 22/8/2025.

23. The petitioners point out that despite the respondent's allegation that the Finance and budget committee report was tabled before the Assembly on 17/7/2025, no such report has been produced or minutes of deliberations of the said committee; that only a Hansard report whose authenticity is disputed by half of the Assembly members has been submitted as proof. It is further pointed out that contrary to standing order No. 173 and 174 there was no list of the attendees or signatures of the committee members present. It is further submitted that if such records did exist, then the 1st, 2nd and 4th respondents as the custodians of such records would have had no difficulty in producing them alongside the purported Hansard. That the only conclusion to be drawn is that such reports were never prepared.

24. It is the petitioners' further submissions that the impugned Act was never passed in the plenary. That it is trite law that, a county legislation, including the impugned Act, can only be enacted by the 1st Respondent as per Articles 185 and 207 (2) of the Constitution, Sections 8(1) (c) and 21 of the CGA. The petitioners assert that the impugned Act was never passed because there were no plenary sitting by the Assembly on 17/7/2025, as the Assembly had adjourned; that nine out of the 18 members were absent, and the Hansard Editor, the principal clerk and the Hansard Editor have sworn that no such sitting took place. That the origin of the Hansard report produced by the respondent is suspect, as it bears no signature nor a stamp of the Assembly. That contrary to the existing practice, no video recordings of the plenary session have been availed to prove that there was a debate on the budget estimates.

25. It is submitted that, further, there was no legislative proposal with a memorandum setting out the Bill's objective (Memorandum of objects and reasons) that was submitted to the Assembly speaker as is required by standing order No. 117 and if such proposal was submitted, nothing would have been easier than for the respondents to produce it. That in breach of standing order No. 120, the Bill was never published.

26. It is the petitioners' final submission that the budget estimates were never subjected to any meaningful, effective and informed public participation, and that this failure occurred both on the Executive and the county Assembly level. In setting out the nature, the essence and the threshold in public participation, the petitioners have relied on a number of decisions, including: **British Tobacco Kenya PLC Cabinet secretary for the ministry of Health & 2 others [2019]KESC 15(KLR)**, **Poverty Alleviation Network & others vs president of the Republic of South Africa & others (CCT86/08 [2010]ZACC 5;2010(6)BCLR 520(CC) (Judgment 24 february 2010) par 33)** and **Jared Ngisa Nyabuto vs The county Assembly of Nairobi city County & 2 others [2025]KEHC 8865 (KLR)**.

27. On the part of the failure by the County Executive, it is submitted that in regard to the preparation of the estimates and the other attendant policy documents, forming the basis of the budget estimates, there was no evidence that there was any compliance with Article 201(a) of the constitution, sections 87(b) and 91(c) of the CGA and sections 128(3) (d) and 117(5) of PFMA. That in preparation of

the said preceding documents if any preparation was done, the 5th respondent's Affidavit does not state how exactly, if any, was public participation conducted and whether the public views were finally incorporated in the documents. The petitioners assert that from the 5th respondent's exhibits, it is evident that no public participation was done, and if any, the same was not adequate, not meaningful and not inevitable effective but was merely performative and cosmetic.

28. In respect to what has been submitted by the 5th and 3rd respondents as documentary evidence of the public participation carried out, the petitioner's submit that the authenticity of the said documents are doubtful for want of names, identification numbers and the signatures of the participants. It is further stated that what was evidently a 3-day Notices inviting the public views were not adequate for the ten geographically vast wards in the county. It is further pointed out that from the 5th respondent's schedule of public participation schedule, it is evident that the last public participation was to take place in Burat ward on the 30th April 2025; that it could not have been practically possible for the 5th respondent to conclude the exercise, consider the public views, prepare a report and submit the report to the county assembly, all in one day. It is argued that the only conclusion is that either the 5th respondent never conducted any public participation or if any was done, it was purely cosmetic.

29. On the part of the county Assembly it is submitted that Articles 196(1) and Article 201(a) of the constitution place an obligation on the part of the

county Assembly to seek the views of the public when conducting its business. It is pointed out that this is also a requirement under **Section 131(2) of the PFMA**, and standing orders **Nos. 124(3) and 212(5)** of the Assembly's standing orders. The position was also reiterated in the case of ***Robert Gakuru & others vs The Governor , Kiambu county & 3 others [2014]KEHC 7516 (KLR)***

30. It is submitted that the alleged committee report on public participation that has been submitted in evidence and allegedly signed by the chairman of the Budget committee has strongly been disputed by a member of the committee

1st to 4th respondents' Submissions.

31. The 1st to the 4th respondents (hereafter; "The respondents) have addressed two issues, namely; whether the impugned Act was enacted in compliance with the Constitution and applicable law, and secondly, whether the Petitioner is entitled to the reliefs sought.

32. The Respondents submit that the case of ***Olum & Ano vs National Assembly and 4 others (2000) 2 EA 508 set*** the ground rule: that in determining the constitutionality of a statute the court must interrogate its purpose and effect, and it is only if either purpose or effect infringes the constitution can the statute be declared unconstitutional. It is further submitted that the impugned Act enjoys a presumption of constitutionality, and the burden is on

the petitioners to prove with cogent evidence that, either its purpose or effect is unconstitutional.

33. On the impugned Act, it is the respondents' submissions that the petitioners' grievances is predominantly on the procedural issues; that the budget making process strictly adhered to Sections 125 to 146 of the PFMA and Isiolo County Assembly Standing Orders Nos. 210 to 224 and section 21(3) of CGA. It is pointed out that the Hansard report annexed to their Affidavit is a testimony of the aforesaid compliance.
34. The respondents fault the petitioners' for attempting to introduce documents completely strange to the county Assembly as they pertain to approval of the budget estimates. They assert that the records submitted in evidence by the petitioners are illegal and unreliable because the Assembly session referred to in the said documents was allegedly presided over by the 1st Petitioner, who by then had ceased being the speaker of the county Assembly, pursuant to a court order issued by the **Nairobi ELRC petition No. E139 of 2025.**
35. It is further submitted that section 19 of the county Assembly services Act, as read with standing order No. 226 vests the statutory mandate of record keeping and authentication of Assembly proceedings in the clerk of the Assembly. Therefore, it is further argued, Annexure SBG 8 attached to the 3rd respondent's Affidavit should be treated as the only valid record emanating from the Assembly.
36. On public participation, the Respondents argue that the constitutional and statutory requirements were met; that they have placed before the Court documentary evidence, including a Newspaper

Advertisement (SBG-5) and an official Public Participation Report (SBG-6) in support of their submission in this regard.

37. The respondents further submit that the reasonableness of public participation is considered against three factors, namely; “ *what the legislature has determined to be reasonable procedure for public participation, the importance of the potential impact on the population , and practical considerations such as time constraints an resources available*”. They also argue that public participation is not a mechanical ritual requiring every citizen to be heard, but necessitates a demonstrable and reasonable framework for engagement. They placed reliance in the case of **Mui Coal Basin Local Community & 15 others v Permanent Secretary Ministry of Energy & 17 others (2015) eKLR**, which affirms that public participation must be judged based on reasonableness, practical considerations, and established procedures.
38. In conclusion, the respondents emphasize the need for respect of the separation of powers between the three different Arms of Government and submits that there has been no demonstrable violation of the constitution in the present case and consequently any intervention of the court in the circumstances, would amount to unwarranted intrusion into the legislative independence of the county Assembly.
39. On whether the reliefs sought should be granted, the respondents submit that the petitioners have not demonstrated with sufficient clarity the nexus between the acts complained of, and the specific constitutional rights alleged to have been violated.

The 5th Respondent's Submissions

40. The 5th respondent, while pointing out the fact that Budget making is a process, and not an event, submits that the entire process set out under 125 (1) of PFMA was followed. She states that the county development plan was prepared (Annexure LK1), Fiscal strategy paper was duly adopted (Annexure LK 2), budget estimates were duly submitted to the Assembly and the Appropriation Act was enacted.
41. On public participation, it is stated that Annexure marked "LK- 2a" is a Newspaper advertisement showing that the public were invited to give their views, and Annexure marked LK-2b is the compiled report arising therefrom. It is also submitted that public participation does not mean every citizen must be heard; that in any event the burden is on the petitioners to prove that there was no or sufficient public participation.
42. The Respondent also contends that the Respondents complied with the duty to facilitate citizens involvement in the statutory budget process and the duty was discharged by issuing News Paper Notices and by compiling the Participation Report.
43. The 5th Respondent further submits that contrary to the principles established in **Anarita Karimi vs Republic (1979) e KLR**, and **Trusted society of Human Rights vs Cabinet secretary Devolution and planning (2017) e KLR**, there is lack of specificity on the constitutional provisions that have allegedly been violated.
44. It is this Respondent's final submissions that the petition is nothing but a thinly veiled attempt to paralyze the operations of the Assembly and the

Treasury, in the discharge of their constitutional mandates.

The 2nd to 16th Interested Parties' Submissions.

45. On 15.08.2025 the Advocate for the 2nd to the 16th interested parties (The interested parties), informed the court that the said parties were Residents of Isiolo, and were in support of the petition. They were consequently granted the liberty to file submissions. They opted to address the issue of public participation, only.
46. The Interested parties submit that the Petition raises grave issues of public interest on constitutional and statutory provisions governing the allocation of, and use of public funds.
47. They further submit that the legal framework of public participation is founded on Articles 1(2), 10(2) 196(1) and 201(a) of the constitution, section 10(2) and 113 of the CGA and sections 100, 128 (3) (d) of PFMA, and have detailed the legal requirements demanded of, in each Article, or section of the law. It is submitted that public participation must meet both the qualitative and quantitative test as was emphasized in the case of **Robert Gakuru & others vs Governor of Kiambu** (supra).
48. It is the interested parties further submission that the 5th respondent did not demonstrate how the public participation was conducted, and how the public views were incorporated in the budget making process. They argue that the call to submit views through email, for those who could not reach the forums venues, in respect of a population that could be lacking in the technical know-how and communication targets, as well as language barrier

was ill- informed. It is pointed out that the Advertisement inviting views was issued on 23rd April 2025 and the public forums were to take place between 28th and 30th April 2025; that both the Notice period and the time for collection of views were too short for the Residents to meaningfully and effectively participate. In this regard the interested parties have relied on the case of ***Job Kimanthi vs Kitui County Government [2017] KEHC356 (KLR)*** in which due to the short Notice and few days for undertaking public participation , the Kitui county Finance Act for 2014, was nullified.

49. The Interested Parties further argue that as a matter of common notoriety, Isiolo county is a largely vast, poor and a marginalized county; that the people are largely illiterate or semi illiterate and thus the advertisement in English language and through a Newspaper locked out many people. It is stated that the Newspaper advertisement should have been supplemented with Radio Advertisement and public speeches in Kiswahili and local dialects. That the duty to inform the public become more onerous when a legislation touching on public finance was being legislated.

50. It is finally submitted that while public participation in this case was two- pronged , there has been no evidence that the county Assembly conducted any public participation. That failure to engage the public in the decision- making process , denied the citizens their right to contribute to the development of laws and policies that affect their lives.

Analysis and Determination

51. I have considered the Petition, the Replying Affidavits and the respective submissions of the parties, and I have identified the following issues for determination:

- a) Whether the impugned Act was enacted in compliance with mandatory constitutional and statutory requirements
- b) Whether the budget process leading to the enactment of the Impugned Act complied with the constitutional requirement for meaningful public participation
- c) What appropriate Reliefs should the court issue

Preliminary

52. The 1st to the 4th respondents initially filed a Notice of preliminary objection challenging the jurisdiction of this court to entertain the petition. However it is apparent that they abandoned this issue along the way. However the petitioners did address this issue in their submissions. In this regard, it suffices to state that under Article 165 (3) (d) of the constitution the high court is given an express mandate to determine whether any law is inconsistent with, or is in contravention of the constitution. Further, contrary to the what the respondents attempted to portray in the objection, the gist of the petition is the constitutionality of the impugned Act and not the lawful office holders at the county Assembly at the time of the legislation of the impugned Act.

Whether the impugned Act was enacted in compliance with mandatory constitutional and statutory requirements

The legal framework

53. The following are the general provisions which govern the administration and the budgeting of the expenditure of Public Finance at county Governments level:

a) **Article 207(2) (c)** of the constitution provides that money may be withdrawn from the county Revenue fund only *“as authorized by an appropriation by legislation of the county “*

b). **Section 8(1) (c) of CGA** lists one of the functions of the county Assembly as to : *approve the budget and expenditure of the county government in accordance with Article 207 of the Constitution, and the legislation contemplated in Article 220(2) of the Constitution, guided by Articles 201 and 203 of the Constitution;*

c). **Section 21 of CGA** sets out the procedure for the exercise of legislative powers at the county Assemblies as follows:

(1) *A county assembly shall exercise its legislative power through Bills passed by the county assembly and assented to by the Governor*

(2).....

(3) *In the case of a money Bill, the county assembly may proceed only in accordance with the recommendation of the relevant committee of the county assembly after taking into account the views of the county executive committee member responsible for finance.*

(4) For the purposes of this Act, "money Bill" means a Bill that contains provisions dealing with

—
(a) taxes

; (b) the imposition of charges on a public fund or the variation or repeal of any of those charges;

(c) the appropriation, receipt, custody, investment or issue of public money;

(d) the raising or guaranteeing of any loan or its repayment; or

(e) matters incidental to any of those matters.

54. Turning to the impugned Act, the appropriate place to start with is **section 125 (1) of the PFMA**.

The section sets out the budgetary process as follows:

“(1) The budget process for county governments in any financial year shall consist of the following stages—

a. Integrated development planning process which shall include both long term and medium term planning;

b. Planning and establishing financial and economic priorities for the County over the medium term;

c. Making an overall estimation of the County Government’s revenues and expenditures;

d. Adoption of County Fiscal Strategy Paper;

- e. Preparing budget estimates for the County Government and submitting estimates to the County Assembly;
- f. Approving of the estimates by the County Assembly;
- g. Enacting an appropriation law and any other laws required to implement the County Government's budget;
- h. *Implementing the County Government's budget; and*
- i. *Accounting for, and evaluating, the County Government's budget revenues and expenditures.*

55. Section 131(2) of the PFMA, calls for the involvement of the select committee. It provides that :
“before the county assembly considers estimates, the relevant committee shall discuss and review the estimates and make recommendations to the county assembly, and in finalising the recommendations to county assembly, the committee shall take into account the views of the County Executive Committee member for finance and the public on the proposed recommendations”.

56. The standing orders of the Isiolo county Assembly deal with the nitty- gritty of the budget process once it lands on the County Assembly;

- a). **Standing order No. 190** establishes the Finance , Budget and Appropriation Committee . one of the functions of the said committee is to; *“discuss*

and review the estimates and make recommendations to the Assembly” (190(b)) ; “and to Examine Bills related to the County budget , including Appropriation Bills “(**190(d)**).

b). Standing order No. 212 deals with presentation of Budget Estimates and committal to committees. It states in verbatim:

“(1) The Member of County Executive Committee responsible for finance and the accounting officer of the County Assembly Service Board shall, not later than 30th April, respectively submit to the Assembly Budget Estimates and related documents specified in law for the County Government and County Assembly.

(2) The Estimates and related documents submitted under Paragraph (1) will be tabled in the Assembly within three days of submission.

(3) Upon being laid before the Assembly, the Estimates shall be deemed to have been committed to each Sectoral Committee without question put, for each such committee to deliberate upon according to their respective mandates.

(4) Each Sectoral Committee shall consider, discuss and review the Estimates according to its mandate and submit its report and recommendations to the Finance, Budget and Appropriations Committee within twenty-one days, after being laid before the Assembly.

(5) The Finance , Budget and Appropriations Committee shall discuss and review the Estimates and make recommendations to the Assembly, taking into account the recommendations of the

Sectoral Committees, the views of the Executive Committee Member in charge of Finance and the public.

(6) *The Assembly shall, on a motion, that, "This Assembly adopts the Report of the Finance, Budget and Appropriations Committee on the Budget Estimates for the County Executive, and Assembly tabled in the Assembly on" consider, the Report and adopt it with or without amendments.*

(7)"

c). **Standing order No. 173** requires that names of Members present at each sitting of a select committee shall be entered in the minutes of that sitting.

d). **Standing order No. 120**, requires that a Bill be published in a Gazette ,and in respect of the money bill it cannot be introduced in the house until 7 days have lapsed from the date of publication.

57. In summary therefore, before a county Appropriation Act comes into being, it goes through the following stages: (a).The Executive member in charge of Finance (CEC Finance) prepares the Budget estimates and submits to the county Assembly;(b) the county Assembly forwards them to its Finance, budget and Appropriation committee;(c) the said committee considers it and makes recommendation to the county Assembly.(d) The Assembly debates it and passes it with or without Amendments ; (e) Finally it is ascended to by the Governor, then published in the Gazette .

58. It is the petitioners' case that, firstly the budget estimates were never submitted to the county Assembly, by the CEC Finance. In this regard, the petitioners have relied on the Affidavits of Fatuma Adan Galma, the Hansard Editor, and the Affidavit of Ali Huka Godana the principal clerk Assistant who swore that there was no order paper indicating that the estimates were laid before the Assembly on 30th April 2025. On the other hand the 3rd respondent in his replying affidavit sworn on 18.8.2025 states that the budget estimates were laid before the County Assembly on the said date. Attached to his Replying Affidavit are other Affidavits sworn by some members of county Assembly (MCAs), all testifying to the fact that the budget estimates were received in the Assembly and forwarded to the budget committee.

59. However, no documentary evidence has been placed before this court showing that the estimates were placed before the Assembly on 30.4.2025. On the contrary the petitioners have submitted in evidence an *Order paper* and Hansard report for 30th April 2025, indicating that both documents had no record of any business concerning the budget estimates.

60. The 1st to the 4th respondents have brought to the attention of the court, and indeed the court has taken note, of the existing dispute on who is the valid speaker of the Assembly and the apparent division of the members of the assembly into two factions. However on the 30th April 2025, the dispute on the who was the rightful person to preside over the Assembly had not risen. On 30th April, 2025 therefore, the Assembly was one, and it follows that

there could only have been one order paper and one Hansard report for that 30th April 2025. Further it could not have been one of the documents that according to the respondents have been manufactured by the petitioners for purposes of this case. Further the respondents have not provided any alternative Hansard Report for that date.

61. Further, the budget estimates were being submitted by one Arm of Government to another, and in which case, it was expected that there would be a forwarding letter or document of some sort. Such a document would have been proof enough that indeed the budget estimates were submitted to the county Assembly. Further the submission of the budget estimates must be within a certain timeline, namely 30th April. In view of the significance of the documents, and the said deadline, it is implausible for the respondents to impliedly suggest that the budget estimates could have been dropped in the relevant office of the county Assembly, without any accompanying document. In brief, aside the affidavits, the respondents have no evidence at all, to prove that the budget estimates were submitted to the Assembly on 30th April 2025, or at all.

62. Further as per the schedule of public participation forums (Annexure SBG6), the 30th April 2025 was the last day of public participation. That day the exercise was covering six wards. Am persuaded by the petitioners' submissions that it could not have been practically possible for the CEC Finance to do public participation in six wards, compile the report, and submit the estimates to the county Assembly all in one day.

63. In the circumstances, it is the finding of this court that no budget estimates were submitted to the county Assembly on 30th April 2025.

64. Secondly the petitioners state that the Budget estimates were never submitted to the Budget committee . The basis of their submission is that there were no minutes or report from the said committee indicating that there were any deliberations that took place ; that there is no list of attendees in the said committee as required by standing order No. 173, of the standing orders.

65. In response, the 1st to the 4th respondents have referred the court to Annexure marked "SGB 8". A perusal of the said Hansard shows that it is a Hansard of the Assembly, not a report of the budget committee. The debate on the floor of the house then was on the report and its adoption of the budget committee report. The Exhibit therefore does not answer the question of whether the budget Estimates were forwarded to the budget committee, in the first place. If the respondents could easily avail a Hansard report which give an indication that the Assembly was by then debating the Finance committee proposals, what stopped them from submitting the report or minutes of the same committee together with the list of the attendees during the deliberations of the budget estimates, as required by standing order No. 173?

66. The respondents have argued, quite correctly that, pursuant to the provisions of standing order No. 26(1), the clerk of the county Assembly is the custodian of all

the county Assembly records . It therefore follows that the minutes of the budget committee, the reports, the list of Attendees are/ or were within the custody of the respondents, yet they have not been able to produce any of the aforesaid documents . If the documents existed, nothing would have been easier, for the respondents than to place them before the court

67.The consideration of the Budget Estimates by the budget committee before approval or passage by the county Assembly is a mandatory requirement as per the relevant provisions as set out herein before .The provisions are gauged in mandatory terms. To the extent that there is no evidence that the budget estimates were discussed by the budget committee then the 1st to the 4th respondents were in breach the provisions of section 131(2) of PMFA , section 21(3) of CGA and standing orders Nos. 190(b) & (d) and 212(5) of the standing orders.

68.The next question is whether the impugned Act was debated on and passed by the county Assembly. Article 185 of the constitution vests the legislative Authority of the county on the county Assembly as aforesaid. Further pursuant to Article 207(2) (b) any withdrawals from the county revenue fund must be preceded by authorization by an appropriation by of the county.

69.The petitioners' case in this regard is that, the Budget estimates were never debated and passed by the Assembly ; that there was no sitting by the county Assembly on the alleged date of 17th July

2025, that there was no evidence of such sitting ; and that the Appropriation Bill was never published.

70. On the publication of the Bill, standing order No. 120 , requires that the bill be published at least 7 days before its introduction in the Assembly. The onus was on the 3rd respondent, as the custodian of records, to submit the said Bill, once its publication was cast in doubt, by the petitioners. He failed to submit it. I have further observed that there was no rebuttal from the side of the respondents on this issue. The lack of any rebuttal, as well as failure to produce the bill is instructive. The inevitable conclusion was that such a bill never existed, or if it did exist, then it was never published.

71. On the plenary, the respondents have asserted that the plenary was held , and that they have submitted records in proof. They have further stated that the documents submitted by the petitioners were not genuine, and that the only valid records are those that have been produced by the 3rd respondent, as the lawful custodian of all the county Assembly records. To buttress their case, the respondents relied on the Affidavit of the 3rd respondent, to which is attached a Hansard, reported to be that of 17.07.2025 (Annexure SBG-8); that the Hansard demonstrate that the Bill passed through all the readings in plenary on the 17th July 2025. On the other hand, the petitioners have argued that the Hansard report did not emanate from the office of the clerk or Hansard Editor. The Hansard Editor has sworn an Affidavit stating that there were no Assembly sittings on 17th July 2025.

72. I have considered Exhibit SBG 8, submitted by the respondents. It contains a disclaimer which reads as

follows: *“The electronic version of the Official Hansard Report is for information purpose only. A certified version of this Report can be obtained from the Hansard Editor”*. The copy produced in court was neither certified nor stamped and there was no leave sought to file a certified or a stamped one. Further if the document was in the custody of the 3rd respondent as per their submissions, it begs the question as to why a certified copy was not submitted to court.

73. Whereas it has clearly emerged from the arguments of both parties that there are two factions competing for control of the Assembly, as aforesaid, the Assembly technical staff consisting of the Hansard Editor, and principal clerk could not be said to have been siding with one side of the faction. And even if such was the case, nothing stopped the respondents from producing a certified copy of the Hansard report.

74. The petitioners have further argued that the house was not sitting on 17th July 2025 as the house had gone on recess. This argument clearly arises from the fact that there are two factions competing in running the assembly, as earlier stated, each of which was being presided over by a “speaker”. Also the court’s attention has been drawn to the existences of **Petition No. E 139 of 2025** pending before the ELRC at Nairobi the subject matter of which is on the lawful occupant of the speaker’s seat. I have seen the order of Justice Wasilwa issued on 15th July 2025, directing that **Abdullahi Jaldessa Banticha** should not be removed from, or degazetted, as the county Assembly speaker, pending the interpartes hearing of the Application. However the court has taken note of

the fact that the 15th July was the same day the house was being adjourned by the 1st petitioner, then sitting as the speaker of the house. The question therefore as to whether the house was in recess on 17th July 2025, based on the alleged adjournment on the 15th July 2025 is not for this court to determine. It suffices to state that the onus was on the respondents to avail authentic documents showing that there were valid proceedings on 17th July 2025.

75. The Court finds that the Respondents has not discharge the evidential burden of proving the passage of the budget estimates by the county Assembly on 17th April 2025. The mere citing of the plenary record when the authenticity of the Hansard has not been affirmed is not sufficient.

Whether the budget process leading to the enactment of the Impugned Act complied with the constitutional requirement for public participation

76. Public participation is one of the National values and principles of governance, and in respect to the county government, it is a requirement at both the Executive, and Legislative levels .

Legal framework on public participation

77. Under **Article 10(1) (a)** of the constitution, public participation is one of the values of principles of Governance; under **Article 174 (c)**, one of the objects of devolution is to : “give powers of self-governance to the people and enhance participation of the people in the exercise of the powers of the state and in making decisions affecting them” ;

Article 196(1)(b) requires the county Assemblies to “*facilitate public participation and involvement in the legislative and other business of the Assembly and its committees*”; Under **Article 201(a)** openness, accountability and public participation, in financial matters, is one of the principles of public finance.

78. The essence of public participation was aptly explained in the case of ***Peter Makau Musyoka and Award of Mining Concessionary Rights to the Mui Coal Basin Deposits - Constitutional Petition No. 305 of 2012 (2015) eKLR*** where the court stated :

“.....public participation is a national value that is an expression of the sovereignty of the people as articulated under Article 1 of the Constitution. Article 10 makes public participation a National Value as a form of expression of the sovereignty. Hence, public participation is an established right in Kenya; a justifiable one - indeed one of the corner stone of our new democracy.”

79. The petitioners have argued that there was no public participation, and if any was done, it was insufficient, had no meaning, and was merely cosmetic. The respondents on the other hand submit that the constitutional duty on public participation was discharged. On the part of the 5th respondent a Newspaper Advertisement (Annex SBG-5/LK-3a) and the Public Participation Report (SBG-6/LK-3b), have been produced. It is further contended that, save for the existence of reasonable framework, participation does not require every person to be heard.

80. The Petitioners and Interested Parties have dismissed the process, arguing that the 3- days' Notice notifying the public about the scheduled dates and venues was insufficient; that the three-day period for sessions that were to be held between 28th-30th April 2025, when considered against the ten geographically vast wards were not sufficient. The Petitioners have further stated that the same three-day notice for studying complex financial documents was unrealistic .

81. On the public participation done on 30th April 2025, they have highlighted the implausibility of conducting public participation, in 6 counties, gathering views, preparing a report, and submitting estimates to the Assembly, all in one day. It is submitted that such an exercise, done in a very short time, suggests a potential *"tokenistic consultation aimed at fulfilling a procedural box-ticking exercise rather than genuine engagement"* (The decision in the case of **Jared Ngisa Nyabuto v The County Assembly of Nairobi City County and 2 others (2025) eKLR**), has been relied on, in this regard.

82. The Supreme Court of Kenya has established the qualitative threshold for public participation, declaring it a living constitutional principle that goes to the constitutional tenet of the sovereignty of the people. In the case of **British American Tobacco Kenya, PLC v Cabinet Secretary for the Ministry of Health & 2 others** [2019] KESC 15 (KLR), the Supreme Court held that:

"Public participation and consultation was a living constitutional principle that went to the constitutional tenet of the sovereignty of the people. In line with the

court's mandate under section 3 of the Supreme Court Act, the following are the guiding principles for public participation:

- 1. As a constitutional principle under article 10(2) of the Constitution, public participation applied to all aspects of governance.*
- 2. The public officer and/or entity charged with the performance of a particular duty bore the onus of ensuring and facilitating public participation.*
- 3. The lack of a prescribed legal framework for public participation was no excuse for not conducting public participation; the onus was on the public entity to give effect to the constitutional principle using reasonable means.*
- 4. Public participation had to be real and not illusory. It was not a cosmetic, public relations act or a mere formality to be undertaken as a matter of course just to 'fulfill' a constitutional requirement. There was need for both quantitative and qualitative components in public participation.*
- 5. Public participation was not an abstract notion; it must be purposive and meaningful.*
- 6. Public participation had to be accompanied by reasonable notice and reasonable opportunity. Reasonableness could be determined on a case to case basis.*
- 7. Public participation was not necessarily a process consisting of oral hearings, written*

submissions could also be made. The fact that someone was not heard was not enough to annul the process.

8. Allegations of lack of public participation did not automatically vitiate the process. The allegations had to be considered within the peculiar circumstances of each case: the mode, degree, scope and extent of public participation was to be determined on a case to case basis.”

83. In the same British ***American Tobacco case*** (supra) the supreme court further went on to set out the Components of meaningful public participation to include:

a. “clarity of the subject matter for the public to understand;

b. structures and processes (medium of engagement) of participation that were clear and simple;

c. opportunity for balanced influence from the public in general;

d. commitment to the process;

e. inclusive and effective representation;

f. integrity and transparency of the process;

g. capacity to engage on the part of the public, including that the public had to be first sensitized on the subject matter.”

84. The Court of Appeal spoke to the purpose of public participation in the case of **Legal Advice Centre & 2 others v County Government of Mombasa & 4 others [2018] KECA 381 (KLR)**

where it held as follows: -

“The purpose of permitting public participation in the law-making process is to afford the public the opportunity to influence the decision of the law-makers. This requires the law-makers to consider the representations made and thereafter make an informed decision. Law-makers must provide opportunities for the public to be involved in meaningful ways, to listen to their concerns, values, and preferences, and to consider these in shaping their decisions and policies. Were it to be otherwise, the duty to facilitate public participation would have no meaning.”

85. In the instant case, the 5th respondent has submitted in evidence a newspaper Advertisement being a notice informing the public about the schedule dates for presenting their views for the respective wards . A report compiled after the exercise was also produced.

86. However there is no evidence of minutes showing who attended the sessions or who conducted it . The photographs provided have no dates, and thus this court is not in a position to ascertain if they were taken within the relevant period. The Public Participation Report does not show names, identification numbers or signatures of members of the public who allegedly participated in the exercise. And as correctly pointed out by the petitioners, the Notice did not state how the budget estimates were to be accessed by the public. The inevitable question

is, at what point did or was the public expected to read the documents, and consequently make informed input?

87. Further, as submitted by the interested parties, as a matter of common notoriety Isiolo county is vast; it is classified by the Government as a hardship area. Further as per county Government's current integrated development plan (Annexure LK-1) the county's literary level is at 49% against the National Average of 82.9 % . Thus, although I consider the 5-days' Notice to have been reasonable the advertisement through the Newspaper was inadequate in view of the prevailing literacy level.

88. Most parts of the county is also remote and to expect access to newspapers by citizens living in remote areas of the county was both simplistic and unrealistic. Radio would have been a better communication tool, since Radio can be accessed through even the least sophisticated cell phone. In this regard, I associate myself with the views of the court in the case **Robert N. Gakuru & others v The Governor Kiambu County (supra)**, where the court held: "the duty of the County Assembly in enacting legislation concerning finances and levies is highly onerous, requiring it to use reasonable measures (such as radio, barazas) to ensure the spirit of participation is achieved both quantitatively and qualitatively.

89. It is also evident from the advertisement that only two days were allocated for an exercise covering ten wards , that was 29th and 30th April 2025. Four wards were to be covered on 29th April, and six were done on 30th. Going by the evidence presented by the respondents that last day was also used to compile

report by the 5th respondent and submit it to the county Assembly.

90. This court is not convinced that the CEC Finance was, within those two days, and in the manner that it was done, was in a position to collect, analyze and effectively incorporate the views of the public. Indeed, the absence of identification of the participants is instructive. The exercise was not meaningful, it was not genuine, it was academic. It was not also motivated by the genuine wish to get the views of the Residents of Isiolo but merely to satisfy the requirements of the law. The public participation by the 5th respondent failed both the quantitative and qualitative test of public participation.

91. On the part of the county Assembly, there is no evidence that any public participation took place at all. What is produced in evidence is an undated report by the clerk of the Assembly. The county Assembly is required to undertake public participation at the point of deliberations by the budget committee. There was no notification, and no schedule of meetings for that purpose. From their response, it comes out that the Assembly is relying on the public participation carried out by the executive. That position is a misconception of the law. Failure to conduct public participation by the Assembly was a direct violation of Article 196(1) (b) of the constitution, the relevant statutes set out herein before, and its own standing orders.

92. Consequently, this court arrives at the inevitable conclusion that the process leading up to the purported enactment of the impugned Act was never subject to meaningful, effective and informed public participation by the County Executive, and there was no public participation at all undertaken by the county

Assembly. Consequently, the enactment of the impugned Act violated Articles 10(2), 196(1) and 201(a) of the constitution

93. In determining the constitutionality of a statute, the guiding principles are well-settled. One of those principles was laid in the case of **Nyanabo vs Attorney General of Tanzania (2001) E.A 495**, where the court held *inter alia* that the constitutionality of an Enactment is presumed, and the burden of proving otherwise, is upon the one who pleads unconstitutionality. In view of what this court has stated hereinbefore, I am satisfied that the petitioners have fully discharged that burden.

94. Further the 5th respondent has submitted, and the court entirely agrees with their submission that, in determining whether a statute offends the constitution, the court must also interrogate its purpose and effect, and that it is only if its purpose or effect infringes the constitution does it deserve to be nullified. In the present case, the resultant effect of the impugned Act was that, despite the fact that the impugned Act was going to determine how their financial resources were to be spent, and the priority areas of financing, the input of the residents were not sought or was insufficient. The court reiterates the finding in **British American Tobacco's case** (supra) that, public participation is a constitutional principle that speaks to the sovereignty of the people as envisaged under Article 1 of the constitution. The residents of the county were denied an opportunity to have a say on how their resources were going to be utilized.

95. In view of the foregoing , am satisfied that , the Petitioners successfully demonstrated that the Impugned Act, was enacted, without complete compliance with the mandatory constitutional and statutory safeguards governing the budget process. In the case of ***Oloka Onyango v Attorney General case. Petition No. 8 of 2014(UGCC) 14*** as cited with approval in the case of ***Coalition for Reform and Democracy (CORD) & 2 others v Republic of Kenya &10; others [2015] KEHC 7074 (KLR)*** the court had this to say about failure to comply with a process of enactment: *“the enactment of the law is a process and if any of the stages therein is flawed, that vitiates the entire process and the law that is enacted as a result of it..... failure to obey the law (Rules) renders the whole process a nullity”.*
96. In the enactment of the impugned Act, the procedural impropriety on the part of the respondents vitiated the entire process, rendering the resulting Act unconstitutional. I hasten to add that it is not the apparent political rivalry within the county Executive and county Assembly which largely vitiated the enactment of the impugned Act ,but rather the disregard of law by those who were the duty bearers at particular the stages of the legislative process .
97. Before I conclude, I must state that the circumstances of this case have brought out what is evidently a blatant disregard of the law by the county Executive and the County Assembly of Isiolo . The speed, and the cursory manner, in which the public participation was done, if any at all; failure to comply with the procedures of statutory enactments and its own standing orders by the county Assembly and ignoring constitutional principles by both, was a sign of

contempt for the constitution, the relevant statutes and the people of Isiolo. The rule of law is not an option for both those who govern and the governed. The moment any of the parties step outside it, injustice, anarchy and oppression are the some of the inevitable results.

98. In conclusion, the petition succeeds and the following orders are hereby issued:

a). A Declaration is hereby issued that the Isiolo County Appropriation Act, 2025 is unconstitutional, null, and void ab initio for failure to comply with the mandatory provisions of Articles 10, 174, 185, 196, and 201 of the Constitution of Kenya, relevant statutory requirements, including but not limited to Section 21(3) of the County Governments Act, Section 131(2) of the Public Finance, Management Act, 2012 and standing orders of the county Assembly of Isiolo

b). The declaration of unconstitutionality made in paragraph (a) above is hereby suspended for a period of three (3) months from the date of this Judgment.

c) The Isiolo County Assembly and the County Executive Committee Member for Finance are hereby directed to regularize the legislative process and re-enact the Isiolo County Appropriation Act, 2025 within the three (3) month suspension period, in strict conformity with the letter and spirit of the Constitution and applicable statutes, including but not limited to public participation.

d). For avoidance of doubt , the orders of this court issued on 9th September , 2025 , unless otherwise

spent , will subsist the re- enactment of the new Act.

e). This being a public interest litigation, parties to meet their own costs.

Dated, signed and delivered at Isiolo this 13th day of November 2025.

S. Chirchir

Judge.

In the presence of :

Roba Katelo- court Assistant

Mr. Jarso and Dr. Owino for the petitioners

Ms. Kiunga for the 1st to 4th Respondents

Mr. Tali Tali for the 5th Respondent

Ms. E. Ebuye for the Controller of Budget.