



**Mala v General & 6 others (Miscellaneous Civil Case E017 of 2025)
[2025] KEHC 16589 (KLR) (14 November 2025) (Ruling)**

Neutral citation: [2025] KEHC 16589 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT SIAYA
MISCELLANEOUS CIVIL CASE E017 OF 2025
DK KEMEL, J
NOVEMBER 14, 2025**

BETWEEN

FREDRICK OMONDI MALA PETITIONER

AND

ATTORNEY GENERAL 1ST RESPONDENT

INTERNAL SECURITY PS 2ND RESPONDENT

THE INSPECTOR GENERAL OF POLICE 3RD RESPONDENT

THE KENYA WILDLIFE 4TH RESPONDENT

THE JUDICIAL SERVICE COMMISSION 5TH RESPONDENT

THE ODPP KENYA 6TH RESPONDENT

PUBLIC SERVICE COMMISSION 7TH RESPONDENT

RULING

1. The Applicant herein filed this Notice of Motion dated 20th May 2025 wherein he sought for several orders inter alia:
 1. That arrest of the officers who conspired with the criminals and the ODPP officers.
 2. That this court do issue an order compelling the Inspector General of Police to bring to court all his twenty-three criminal files to court for the arrest of criminals, assessment of damages and for protection of more damages.
 3. That this court do issue an order for government to pay appropriate damages of Ksh40,000,000 = not or unless it does not go below.



4. That this court to issue an order to execute constitutional mandate of public officers like protection of Human Rights as provided in Article 26, 28, 29, 36, 40 and 41 of *akn ke act 2010 constitution the Constitution* and that cost of this application be provided for.
2. The application is supported by grounds set out on the face thereof plus the Applicant's supporting affidavit sworn on even date. The Applicants' case is inter alia; the he believes even though the report was made to the police, the Inspector General of Police and his Inspectors who are the Investigating officers still colluded with the criminals and the ODPP officers to continue violating his right and creating more damages and seven assaults that results to no prosecution, eve with overwhelming evidence and that goes in contravention of Article 157 and 158 of the Contitution;that there is the competency of the police service who violated his rights and that of his children for conspiring with the criminal at appoint where children's officer both at Siaya County, Rarieda Sub County, Gem Sub County and Alego Sub County respectively conspiring with mother of the child to kill her own child for wealth that believes of illuminati spear headed by the County Commander, OCPD Siaya and the OCS Siaya, that is intreversal of Chapter 6 of *akn ke act 2010 constitution the Constitution*; that the government ailed to provide its constitutional mandate like provision of the right to life, property and other constitutional mandate that are enriched in *akn ke act 2010 constitution the constitution* of Kenya, that is rightfully mandated by the Public Service Commission that is also given power in *akn ke act 2010 constitution the Constitution* of the Country, they failed their mandate by allowing there staffs to intermeddle with the criminals, hence breaching the Chapter 6 of *akn ke act 2010 constitution the Constitution* that of Integrity, that was reported to the ombudsman and the controversial Petition E003 of 2025 Siaya High Court; that the Plaintiff Applicant further believes there is lack of proper coordination of the PS, internal security resulting to frustration and accrued damage of Kenya Wildlife that resulted to deprivation of Article 43, that the Kenya Wild Life even refused to visit the scene and which resulted in displacement of his family, property, resulting to more damages acin to criminal assassination which is a sign of mob injustice; that wild life officers collude with criminals who are hunters since his home is surrounded by hills and that they plan to assault and attempt to murder as confirmed by the P3 form; that Kenya Wild Life officers also collude with other public officers whom they corrupt; that the Applicant believes that Judicial Service Commission has failed in its mandate by not adhering to Chapter 6 of *akn ke act 2010 constitution the Constitution* by developing systems that has resulted to several cases namely E050, E060, E067, E068, E069, E070, EO71, E003 as well as controversial Petition E009 and others before the Judge which has resulted to more damages; that the total number of cases in Kenyan court and abroad is thirty six cases which has resulted due to negligence by the police, Judicial Service Commission and the Attorney General; that the Applicant believes the Attorney General has failed in its mandate to advise the government on policies which affects citizens of the country as their rights have been violated and which has affected his rights wherein he was deprived of his wife's and children's rights to health.
3. The application is supported further by the supporting affidavit of the Applicant sworn on 31st March 2025 which is a reiteration of the grounds aforesaid.
4. The 1st, 2nd and 3rd Respondents filed grounds of opposition dated 21st July 2025 wherein they raised objections inter alia; that the application is incurably and fundamentally defective both in form and substance as it is incoherent and legally untenable; that the Applicant's application reflects a fundamental misunderstanding of *akn ke act 2010 constitution the Constitution* and the Applicant's on constitutional rights hence is unable to articulate which particular rights have allegedly been infringed or the relationship between the parties and the orders or reliefs sought; that there exists a multiplicity of suits involving substantially similar parties, facts and issues in which the Applicant has filed another case seeking similar remedies based on similar grievances; that no actionable claim has been disclosed



against the 1st, 2nd and 3rd Respondents and that the application contains no legal basis upon which constitutional responsibility can be attributed to them; that the application is devoid of merit and is scandalous and vexatious amounting to an abuse of court process and ought to be struck out or dismissed with costs.

5. The 4th Respondent filed a replying affidavit sworn by Amos Nyaoro dated 28th July 2025 wherein he averred inter alia; that the application does not disclose any cause of action that ought to be responded by the 4th Respondent; that the Applicant reported the incident to enable the process set out on Section 25 of the Wildlife Management Act with a view to verify and to compensate for loss of property but that he failed to attach photos of the dog carcasses or any at all to confirm whether the incident occurred; that injury to dogs is considered as damages to property and that the value is to be assessed before approval of suitable amounts payable for the loss only after the assessment by the County Compensation Committee but that this was curtailed by the Applicant who did not provide the required documentation; that the Applicant's averments alleging inaction the part of the 4th Respondent is untrue and misguided; that the 4th Respondent has been prevented from performing its functions by the failure of the Applicant to report, fill in claim forms and provide relevant attachments.
6. The 5th Respondent filed grounds of opposition dated 29th July 2025 wherein it raised grounds inter alia; that the application is fatally defective, incompetent, legally untenable and is not anchored on any substantive suit, petition or pleading disclosing a justiciable cause of action against the 5th Respondent; that no orders have been sought against the 5th Respondent nor has the Applicant disclosed any reasonable, arguable, or prima facie cause of action against it to justify its enjoinder in these proceedings; that the 5th Respondent has been improperly and erroneously joined as no factual or legal foundation has been laid connecting it to any claim, breach, or relief sought in the application; that the application is replete with conjecture, bare allegations, unsubstantiated claims with no credible or admissible evidence offered by the Applicant to support his case; that the Applicant has failed to plead or particularized with reasonable precision any facts constituting a legal right, injury, or breach by the 5th Respondent and therefore the application remains vague, speculative and incurably defective; that the application is an abuse of the court process as it seeks to unjustifiably drag the Respondent into proceedings in which it has no interest, involvement, or legal obligation, hereby burdening the judicial process and wasting valuable court time; that the application is frivolous, vexatious, and wholly devoid of merit, and appears to be filed solely for purposes of harassment or collateral motives unrelated to the pursuit of justice; that the invocation of this court's jurisdiction is improper, as the pleadings and prayers presented fail to disclose any actionable wrong, legal grievance, or issue warranting judicial intervention; that the application as framed is premature, misdirected and the 5th Respondent prays that the application be struck out and or dismissed in its entirety with costs to the Respondent.
7. The 7th Respondent filed grounds of opposition dated 18th July 2025 wherein it raised several grounds inter alia; that the 7th Respondent is improperly enjoined in the proceedings; that the Petitioner has not disclosed any cause of action against the 7th Respondent; that the Petitioner has not complied with Regulation 77 of the Public Service Commission Regulations 2020 if at all any commission staff is intermeddling with criminals. The regulation provides as follows;
 1. The commission may, on its own initiative or on a complaint made by any person, investigate any issue relating to the commission's constitutional or statutory functions and powers and make such determination as may be just in the circumstances.
 2. The commission in investigating under paragraph (1) shall afford every relevant party and opportunity to be heard before the commission makes a determination in the matter.



The 7th Respondent prayed that it be expunged from the proceedings and or in the alternative that no adverse orders reliefs are issued against it.

8. The other Respondents did not file responses.
9. The application was canvassed by way of written submissions or grounds of opposition.
10. The Applicant filed submissions dated 24 9 2025 and which are as follows (verbatim):

“ Kindly request your Honourable court to act with decorum and to consider this my request as per the regulation and the laws of the Country from Article 1 to Article 45 of *akn ke act 2010 constitution the Constitution of Republic of Kenya 2010*.

Request payment of the requested amount Ksh 40 million as per the evidences and provided on the regulation of both the Attorney General and the bodies guaranteed on the violation. Arrest of the officers mentioned in the suit and proper regulations as per *akn ke act 2010 constitution the constitution of Kenya*. Proper guidance on the law as per the policy and blockage of their duties and the offices they hold. Kindly advise and properly litigate the values that are accordance on the jurisdictions of offices, i.e Wildlife Attorney General Office National Police Service Commission office DCI Office of the President With little remarks, kindly act and prudently advice on the constitutional duties of the mentioned officers and their promotion cadres as per the law of the country.

11. I have considered the application together with the rival affidavits and grounds of opposition as well as submissions filed. I find the issue for determination is whether the application has merit.
12. As the Applicant has filed an application which raises various constitutional violations, he is under obligation to ensure that the issues complained of have been properly framed up and the rights infringed and or violated have been identified as well as the reliefs sought. This is mandatory in order to ensure the Respondents know what and how to respond to the application. The Applicant has predicated this application under Order 40 Rule 1 and 2 of the Civil Procedure Rules as well as Section 63 (c) and Section 3 A of the *akn ke act 1924 3 Civil Procedure Act* and has sought for a raft of prayers some of which are outside the provisions indicated in the application but has veered off into the arena of constitutional rights and violations under Article 26, 28, 29, 36, 40 and 41 of *akn ke act 2010 constitution the Constitution*. Indeed, a reading of the prayers sought by the Applicant leaves no doubt that the Applicant is seeking compensation from the 4th Respondent for injuries suffered by his dog, land rights, police failure to arrest criminals, failure by the rest of the Respondents to adhere to the provisions of Chapter 6 of *akn ke act 2010 constitution the constitution* in the performance of their duties and violations against the Applicant, his wife and children due to interference to his rights under Article 43 as well as his right to protection of his property under Article 40. It is my considered view that all these claims appear to revolve around the Applicant’s constitutional rights under *akn ke act 2010 constitution the constitution* as pleaded by him. Hence, the provision of the *akn ke act 1924 3 Civil Procedure Act* and Rules as cited by the Applicant appear not to be applicable in the circumstances and therefore it is safe to assume that the Applicant when lodging the application intended to present a case based on constitutional violation and that this application is akin to a petition so to speak. That being the position, the Applicant was required to ensure that he complies with the requisite procedure of filing applications touching on constitutional violations and to ensure that the alleged violations, breaches and the rights violated infringed are properly pleaded so as to enable the adverse parties to adequately respond thereto.

Pursuant to the foregoing, the Applicant is under obligation to ensure that whenever he seeks to invoke the jurisdiction of the High Court in accordance with Article 22 of *akn ke act 2010 constitution the*



Constitution and must therefore plead with specificity about the rights that have been infringed upon and or violated. In the case of Communications Commission of Kenya & 5 others Vs Royal Media Services Ltd & 5 Others [2014] eKLR the Supreme Court held as follows:

“(349)...Although Article 22(1) of *akn ke act 2010 constitution the constitution* gives every person the right to initiate proceedings claiming that a fundamental right or freedom has been denied, violated or infringed or threatened, a party invoking this Article has to show that the rights said to be infringed, as well as the basis of his or her grievance. This principle emerges clearly from the High Court decision in Anarita Karimi Njeru V. Republic [1979] KLR 154: the necessity of a link between the aggrieved party, the provisions of *akn ke act 2010 constitution the constitution* alleged to have been contravened, and the manifestation of contravention or infringement. Such a principle plays a positive role, as a foundation of conviction and good faith, in engaging the constitutional process of dispute settlement...”

13. Also, in the case of Japheth Ododa Origa v Vice Chancellor University of Nairobi, Academic Registrar, and Another- Constitutional Petition No. E197 OF 2023 – Judgement Page 23 of 40 Nairobi & B.M Waweru [2018] KEHC 4861 (KLR) the Court discussed the issue of precision in pleadings as follows:

“15. 15. Precision in pleading is vital in Constitutional Petitions because it enables the opposite party to fully understand the case they face and be in position to adequately respond to it. It also enables the court to decipher the issues brought before it for adjudication. It helps in avoiding surprises and ambiguities in the litigation but more importantly it shows the link between the aggrieved party, the litigation but more importantly it shows the link between the aggrieved party, the constitutional provisions at play and the possible infringement. This was well stated by the Supreme Court in the case of Communication Commission of Kenya & 5 Others v. Royal Media Services Limited & 5 Others [2014] eKLR....”

14. Being guided by the foregoing authorities as juxtaposed with the various claims raised by the Applicant, it is clear that the Applicant’s application is a jumbled-up mess wherein one cannot tell as to which claims or rights have been infringed or violated. The Applicant has simply thrown in all manner of accusations against all the Respondents without being clear and candid about the specific violations. That kind of scenario is not tenable as it denies the Respondents the opportunity to respond to the petition appropriately. The application in my view can be summed up as inter alia; that it is incurably defective both in form and substance, lacking precision, clarity and coherence rendering it ambiguous, speculative, and incapable of being answered in any meaningful way; that the Applicant has failed to particularize what rights or fundamental freedoms under the Bill of Rights were denied and the manner of the alleged denial; that the issues in the application have been presented in a convoluted manner, merely referencing constitutional provisions without tying them to the circumstances or actions complained of; that this lack of specificity deprives the Respondents of the opportunity to mount a substantive defence; that some of the Respondent have been improperly included in the suit as parties without clear allegations or legal justification amounting to a misjoinder of parties; that the Applicant has failed to disclose any prima facie violation of constitutional rights or duties attributable to the Respondents, and that no justiciable cause of action has been disclosed; that the petition is fatally defective for misjoinder of causes of action combining constitutional issues with claims that ought to be pursued through ordinary suits or in the proper forums. that the petition is not only vague but also unintelligible, with insufficient particulars; that it does not disclose adequate particulars as relates the alleged claim necessary to enable the Respondents to ascertain the precise constitutional issues for



determination; that the reliefs sought are speculative and bad in law as the same is ambiguous as to why and which party is responsible for paying the decretal sum; that the petition is an abuse of court process and should accordingly be struck out or dismissed with costs for being scandalous and vexatious as there exists proper forums and avenues in law that ought to be explored and exhausted by the Applicant. Indeed, the Applicant is aware that the claims he has made against the Respondents could as well be resolved by other institutions or forums such as National Police Service, EACC, NCAJ, before coming to this court. For instance, the claim against the 4th Respondent had not matured as the Applicant was required to report, fill the forms and attach the attendant documents for consideration by the County Wildlife Compensation Committee before he could consider approaching the court to compel the 4th Respondent to pay compensation if there was failure. As regards the 5th Respondent, the Applicant was required to have raised complaints with the commission and upon being not satisfied then he could approach the court for redress. There is no evidence that the Applicant ever approached the said commission with his complaint in the first place. As regards the 6th Respondent, the Applicant was expected to have approached the said Respondent over the need for the alleged suspects criminals to be charged before court and in the event of non-compliance, the Applicant was at liberty to institute private criminal prosecutions if need be. There is no evidence that he ever did that. As regards the 7th Respondent, the Applicant was required to comply with Regulation 77 of the Public Service Commission Regulations 2020 if at all any commission staff had intermeddled with criminals as alleged by the Applicants. There is no evidence that the Applicant lodged any complaint with the said 7th Respondent before approaching this court. In *Speaker of National Assembly v. Njenga Karume (2008) 1KLR 425* and *Kones v. Republic & Ano. Exparte Kimani Wa Nyoike & 4 Others (2008) 3KLR (EP)* the courts held as follows:

“where there exists an alternative method of dispute resolution established by Legislation, the Courts must exercise restraint in exercising the jurisdiction conferred by *akn ke act 2010 constitution the constitution* and must give deference to the dispute resolution bodies established by statute with the mandate to deal with such specific disputes in the first instance.”

15. Being guided by the foregoing authorities, it is clear that the Applicant has drafted this application in a manner that does not specifically disclose the specific violations and the reliefs sought and further they do not indicate which forum is to address those grievances if any. He has lumped up allegations against all the Respondents some of whom are not connected at all with the Applicant alleged claims. It is the view of this court that the application is incurably defective in both form and substance and that it is incoherent, legally untenable and too vague to permit any meaningful response and that it reflects a fundamental misunderstanding of *akn ke act 2010 constitution the constitution* and the Applicant's own constitutional rights hence the same is untenable as it does not state which particular rights have allegedly been infringed or the relationship between the parties and the reliefs sought. Further, the application is premised on generalized allegations which are unsupported by credible evidence or documentations against the Respondents herein. Again, the application improperly invokes public interest litigation while in substance it merely reflects the Applicant's personal dissatisfaction with public institutions and governance rather than a genuine enforcement of constitutional rights. It is instructive that a keen perusal of the application reveals that the Applicant seems to have issues with several government institutions especially within Siaya and which forms the bulk of his claims. It is further noted that the Applicant is engaging in forum shopping as he has filed numerous applications arising from substantially similar facts against overlapping parties and which seek near-identical remedies leading to multiplicity of cases now pending for determination. It would therefore appear that the reliefs sought by the Applicant are speculative, imprecise and legally untenable as they



are manifestly outside the scope of constitutional reliefs and are unsupported by facts or law. Hence, the cumulative effect of the foregoing observations is that the application is frivolous, vexatious, scandalous and an abuse of the court process and ought to be struck out or dismissed. Further, the application is replete with conjecture, bare allegation and unsubstantiated claims with no credible or admissible evidence by the Applicant in support of his case and that the application has been filed solely for purposes of harassment or collateral motives unrelated to the pursuit of justice.

16. In the final analysis, it is my finding that the application dated 20th May 2025 herein is bereft of any merit. The same is dismissed with no orders as to costs.

DATED AND DELIVERED AT SIAYA THIS 14TH DAY OF NOVEMBER 2025.

D. KEMEI

JUDGE

In the presence of:

N A Fredrick Mala.....Applicant

Okoth.....for 1st, 2nd and 3rd Respondents.

N A Walubengo.....for 4th Respondent.

N A Owiti.....for 5th Respondent.

M s Kerubo.....for 6th Respondent.

Odukenya.....for 7th Respondent

Maureen.....Court Assistant.

