

**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT BOMET**

**PETITION NO. E007 OF 2024**

**IN THE MATTER OF ARTICLES 1, 2, 3, 4, 10, 19, 20, 21, 22,  
23, 24, 165, 174, 175, 176, 195, 232, 251, 258 AND 259 OF  
THE CONSTITUTION OF KENYA 2010**

**AND**

**IN THE MATTER OF THE VIOLATION OF ARTICLES 38, 47  
AND 48 OF THE CONSTITUTION OF KENYA 2010**

**AND**

**IN THE MATTER OF THE COUNTY GOVERNMENT ACT, 2017,  
THE PETITION TO COUNTY ASSEMBLY (PROCEDURES) ACT,  
CAP 274 AND THE STANDING ORDERS OF BOMET COUNTY  
ASSEMBLY**

**AND**

**IN THE MATTER OF THE UNPROCEDURAL AND ILLEGAL  
REMOVAL FROM OFFICE OF THE CHAIRPERSON AND  
MEMBERS OF BOMET COUNTY PUBLIC SERVICE BOARD**

**BETWEEN**

**ENG. ALEXANDER NGENO.....1ST PETITIONER**

**MS. MILCEN SOI..... 2ND PETITIONER**

**MR. ISAIAH BYEGON..... 3RD PETITIONER**

**MR. DAVID TUEI..... 4TH PETITIONER**

**VERSUS**

**COUNTY GOVT OF BOMET..... 1ST RESPONDENT**

**SPEAKER OF THE COUNTY**

**ASSEMBLY OF BOMET..... 2ND RESPONDENT**

**HON. KIBET NGETICH .....3RD RESPONDENT**

**JUDGEMENT**

1. The Petitioners moved this court through the Petition dated 9th September 2024 where they sought declaratory orders against the Respondents. The Petitioners challenged the process of their removal from the Bomet County Public Service Board by the County Assembly citing undue procedure thereby violating their constitutional rights.

## **Petitioners' case**

2. The Petitioners stated that on 3<sup>rd</sup> July 2024, the 3<sup>rd</sup> Respondent served the 1<sup>st</sup> Respondent with a special motion for the Petitioners' dismissal. That the special motion was received by the 2<sup>nd</sup> Respondent who approved it for tabling in the County Assembly. The Petitioners further stated that they were removed from their positions in an unconstitutional and illegal manner.
  
3. It was the Petitioners' case that their removal did not follow the procedure as outlined under **section 58(5) of the County Act**. That they were not invited or requested to appear and explain on any of the allegations against them before the impugned resolution of the County Assembly to remove them was approved. It was the Petitioners' further case that they were invited to a pre-hearing conference through a letter dated 3<sup>rd</sup> September 2024 after the resolution to approve them had been approved. That the Respondents' intentions were clearly malicious as they were intent on sanitizing their irregularities.

4. The Petitioners stated that their removal did not follow the procedure as outlined under **section 4 of the Petition to the County Assemblies Act.** That the petition for their removal was initiated by the 3<sup>rd</sup> Respondent, who acted in his own capacity as a Member of the County Assembly. The Petitioners further stated that the Respondents entertained an illegal document in the form of a special motion dated 23<sup>rd</sup> July 2024 contrary to the provisions of **section 2 of the Petition to the County Assemblies Act.**

5. It was the Petitioners' case that their removal did not follow the laid down procedures as provided for under **Order 73 of the Bomet County Assembly Standing Orders.** That their removal had to be initiated through a Petition and not a special motion as in the present case. It was the Petitioners' further case that a committee was not formed to investigate and approve their alleged grounds for removal from office.

6. The Petitioners stated that their removal did not meet the threshold of grounds of removal as captured in **Article 251 of the Constitution of Kenya**. The Petitioners further stated that their rights to a fair hearing as captured in **Article 50 (1) of the Constitution of Kenya** were violated. That they had a right to a fair and public hearing and that they were asked to appear before a special committee for investigations after they had been removed from office.

7. The Petitioners denied the allegations levelled against them in the special motion. The grounds for removal and/or allegations relied on by the Respondents to remove the Petitioners were listed as neglect of statutory duties and contempt of the County Assembly, conflict of interest, violation of appointment laws and regulations, incompetence and non-compliance with court orders. The Petitioners specifically responded to each allegation and the said responses are captured in the main body of the Petition.

8. Through their written submissions dated 25<sup>th</sup> May 2025, the Petitioners submitted that their removal was not initiated by a member of the public as envisioned by the law. That their removal was initiated by a special motion instead of a Petition and it was presented by the 3<sup>rd</sup> Respondent in his capacity as a Member of the County Assembly. The Petitioners submitted that the special motion did not meet the required tenets of a Petition. They relied on **section 4 (1) and (2) of the Petition to the County Assemblies (Procedures) Act, Federation of Women Lawyers Kenya (FIDA-K) & 5 others v Attorney General & another [2011] KEHC 2099 (KLR) and Odinga & another v Independent Electoral and Boundaries Commission & 2 others [2017] KESC 32 (KLR).**

9. It was the Petitioners' submission that this court was empowered to interfere with the decisions of other organs where there was evidence of illegality. That the 3<sup>rd</sup> Respondent acted *ultra vires* when he presented a special motion instead of a Petition. It was the Petitioners' further

submission that the **Petition to County Assemblies (Procedures) Act** prohibited Members of the County Assembly from initiating Petitions for removal of members of the County Public Service Board. That their illegal removal was of great public significance.

10. The Petitioners submitted that the Respondents acted in violation of **Order 73 of the Standing Orders of Bomet County Assembly**. That a Sectoral Committee ought to have been formed to investigate the allegations levelled against them and a report be tabled within 21 days before the 1<sup>st</sup> Respondent. The Petitioners further submitted that there was no evidence that such a committee was formed and this flouted their rights to a fair hearing. They relied on **Githiga & 5 others v Kiru Tea Factory Company Ltd (Petition 13 of 2019) [2023] KESC 41 (KLR)**.

11. It was the Petitioners' submission they only became aware of their removal through social media. That they were requested to appear before the 1<sup>st</sup> Respondent on 4<sup>th</sup>

September 2024 and this was meant to sanitize or regularize their (Respondents) illegal actions. It was the Petitioners' further submission that this court had the jurisdiction to find that the 1<sup>st</sup> and 2<sup>nd</sup> Respondents were in breach of the Standing Orders. Reliance was placed on **Coalition for Reform and Democracy (CORD) & 2 others v Republic of Kenya & 10 others [2015] KEHC 7074 (KLR) et.al.**

12. The Petitioners submitted that the grounds for their removal did not meet the threshold as provided under **Article 251 of the Constitution of Kenya**. That the allegations fronted by the 3<sup>rd</sup> Respondent against them were mere allegations, fictitious and malicious and that the same were not proved. They relied on **section 107 of the Evidence Act, Judicial Service Commission v Shollei & another (Civil Appeal 50 of 2014) [2014] KECA 334 (KLR) et.al.** The Petitioners further stated that the Respondents acted arbitrarily on baseless accusations` and had further failed to table any evidence to this court on their allegations.

13. It was the Petitioners' submission that the fact that their removal was an administrative action, the Respondents were enjoined by Article 50 of the Constitution to ensure that they were accorded a fair hearing. They relied on **Republic v National Land Commission & 2 others, Ex-parte Archdiocese of Nairobi Kenya Registered Trustees (St. Joseph Mukasa Catholic Church Kahawa West) (2018) eKLR.**

14. The Petitioners submitted that the 2<sup>nd</sup> Respondent's Ruling dated 1<sup>st</sup> August 2024 was legal flawed as he stated that there were no laws governing the removal of the Petitioners from office. That the law that guided their removal from office was contained in **section 58 (5) of the County Governments Act.** The Petitioners further stated that anything done outside the remit of the Constitution of Kenya cannot stand. They relied on **Commission for the Implementation of the Constitution v National Assembly of Kenya & 2 others (2013) eKLR et.al.** The

Petitioners further submitted that the 2<sup>nd</sup> Respondent was compelled by the Constitution to act within its confines and could not make presumptions.

### **Response**

15. Through a Replying Affidavit dated 14<sup>th</sup> October 2025, the 2<sup>nd</sup> Respondent adopted the contents of his Replying Affidavit filed on 16<sup>th</sup> September 2024. The 2<sup>nd</sup> Respondent stated that the impugned Special Motion was not a resolution of the County Assembly but an annexure to invitation letters issued by the County Assembly's Investigative Select Committee and it conveyed the particulars of the Motion passed on 13<sup>th</sup> August 2024. That the impugned Special Motion did not conform to the formal and procedural requirements of a Resolution which in accordance with the established rules must be certified under the hand of the Speaker and possess the full force and authority of the County Assembly.

16. It was the 2<sup>nd</sup> Respondent's case that the Special Motion of 13<sup>th</sup> August 2024 sought to commence the process or

removing the Petitioners from office and was not a conclusive determination of their removal. That despite the Petitioners' claims that they had been removed from office, they continue to perform their official duties.

17. The 2<sup>nd</sup> Respondent stated that the **Petition to County Assemblies (Procedures) Act** was not the exclusive law that governed the procedure of removing Members of the County Public Service Board. That it was a narrow interpretation as it overlooked other relevant legal frameworks that govern the removal process. The 2<sup>nd</sup> Respondent further stated that the **Petition to County Assemblies (Procedures) Act** did not preclude the County Assembly from invoking its inherent statutory powers under **section 58(5) of the County Governments Act** to remove the members of the County Public Service Board through a Motion.

18. It was the 2<sup>nd</sup> Respondent's case that the Petitioners were invited to appear before their respective Select Committees of the County Assembly for a pre-hearing conference. That

they were invited to give their input on how the hearings would be conducted. It was his further case that the Applicants did not want to defend themselves in response to the allegations levelled before the County Assembly and were intent on frustrating the proceedings before the 1<sup>st</sup> Respondent's Select Committees.

19. The 2<sup>nd</sup> Respondent stated that it was premature for the Petitioners to invoke this court's jurisdiction at this stage as the matters remain under active consideration by the Select Committees and remain undetermined. The 2<sup>nd</sup> Respondent further stated that the purpose of **Standing Order 73 of the Bomet County Assembly Standing Orders** was to specifically allow members of the public to submit Petitions to the 1<sup>st</sup> Respondent to consider the removal of a member of the County Public Service Board and it did not constitute the exclusive or overarching procedure for initiating such a removal.

20. It was the 2<sup>nd</sup> Respondent's case that the procedure for removal of members of the County Public Service Board

initiated by a member's Motion pursuant to **section 58(5) of the County Governments Act** had been adopted as a precedent by the 1st Respondent as they had handled a similar matter in the year 2014.

21. It was the 2<sup>nd</sup> Respondent's case that the Petition did not disclose any arguable constitutional or statutory question and was in effect, devoid of merit. It was the 2<sup>nd</sup> Respondent's case that the Petitioners continue holding their offices and their respective terms had lapsed save for the 1<sup>st</sup> Petitioner whose tenure is about to expire.

22. The 2<sup>nd</sup> Respondent stated that the Petition had been overtaken by events and the Committees ceased to exist. That there was no live controversy remaining for adjudication. The 2<sup>nd</sup> Respondent prayed for the dismissal of the Petition.

23. Through their written submissions dated 15<sup>th</sup> October 2025, the 1<sup>st</sup> and 2<sup>nd</sup> Respondents submitted that the process of

removal of the Petitioners complied with the law. That **section 58(5) of the County Governments Act** specifically listed the grounds for removal as similar to those contained in **Article 251 of the Constitution of Kenya**. The 1<sup>st</sup> and 2<sup>nd</sup> Respondents further submitted that the above sections of the law should not be read alongside **Article 251 (2) of the Constitution of Kenya** which stated that any removal of the Petitioners should be through a public Petition. They relied on **Oduor & 3 others v Magistrates and Judges Vetting Board & another Civil Appeal Nos 457, 458, 466 & 475 Consolidated of 2018 [2021] KECA 92 (KLR) (22 October 2021), Mary Wanjuhi Muigai v Attorney General & another (2015) eKLR et.al.**

24. It was the 1<sup>st</sup> and 2<sup>nd</sup> Respondents' submission that **section 58(5) of the County Governments Act** provided the legal framework for the removal of members of the County Public Service Boards. That while a County Assembly may, at its discretion, adopt supplementary procedures such as the

**Petition to County Assemblies (Procedures) Act**, it was not mandatory nor did it form a legal precondition to the exercise of the 1<sup>st</sup> Respondent's oversight authority.

25. The 1<sup>st</sup> and 2<sup>nd</sup> Respondents submitted that the right to petition a County Assembly as captured in **Petition to County Assemblies (Procedures) Act** enabled members of the public to bring before the Assembly any matters within its legislative or oversight reach. That a member of the public was entitled to petition the Assembly for the removal of a member of the County Public Service Board and that the **Petition to County Assemblies (Procedures) Act** did not make any reference to **section 58(5) of the County Governments Act** suggesting that members of a County Public Service Board could be removed solely through a public Petition. The 1<sup>st</sup> and 2<sup>nd</sup> Respondents further submitted that it was untenable and illogical that only members of the public could initiate the removal of members of a County Public Service Board to the exclusion of elected

members of the County Assembly. That this was contrary to **sections 15 of the County Governments Act.**

26. It was the 1<sup>st</sup> and 2<sup>nd</sup> Respondents' submission that the 1<sup>st</sup> Respondent's Standing Orders were internal rules on how the 1<sup>st</sup> Respondent conducts its business and regulates its proceedings. That they are not generic instruments applicable across all County Assemblies as each County Assembly adopts its own procedures. It was the 1<sup>st</sup> and 2<sup>nd</sup> Respondents' further submission that in the course of the year 2022, the 1<sup>st</sup> Respondent introduced new Standing Orders which allowed members of the public to petition the Assembly for removal of members of the County Public Service Board. That the Standing Order was now known as **Standing Order 73.**

27. The 1<sup>st</sup> and 2<sup>nd</sup> Respondents submitted that **Standing Order 73** was a permissive mechanism for citizen engagement providing a channel in which the public could bring issues of maladministration or misconduct to the Assembly's

attention. That the Petitioners contention that their removal could only proceed under **Standing Order 73** was a fundamental misunderstanding as it did not limit the Assembly's authority to initiate removal proceedings through Motions brought by its own members. That the existence of **Standing Order 73** complemented rather than conflicted with the provisions of **section 58(5) of the County Governments Act**.

28. It was the 1<sup>st</sup> and 2<sup>nd</sup> Respondents' submission that the Assembly had long developed a recognized and consistent internal practice governing Motions for removal of members of the County Public Service Board and had formed part of the Assembly's established procedural traditions and continues to guide such deliberations. That the Motion for the removal of the Petitioners was introduced, the 2<sup>nd</sup> Respondent acting pursuant to **Standing Order 1** provided procedural direction to the house on matters not expressly provided for by the Standing Orders. It was the 1<sup>st</sup> and 2<sup>nd</sup> Respondents' further submission that the 2<sup>nd</sup> Respondent

clarified and harmonized the Assembly's long standing practice regarding removal of members of the County Public Service Board. That the 2<sup>nd</sup> Respondent acted within the bounds of the law by allowing the continuity of parliamentary procedure.

29. The 1<sup>st</sup> and 2<sup>nd</sup> Respondents submitted that the 2<sup>nd</sup> Respondent's impugned Ruling of 1<sup>st</sup> August 2024 reflected clear procedural precedents governing the removal of members of the County Public Service Board and it was reliant on existing Standing Orders. That the said Ruling ensured that the mover of the Motion and the Petitioners were treated equally and afforded a fair opportunity to be heard. The 1<sup>st</sup> and 2<sup>nd</sup> Respondents further submitted that the Petitioners were informed of their charges, granted time to be heard and given adequate time to prepare their responses.

30. It was the 1<sup>st</sup> and 2<sup>nd</sup> Respondents' submission that the procedural directions establishing Committees was given on

1<sup>st</sup> August 2024, twelve days before the Assembly debated the Motion on 13<sup>th</sup> August 2024 and that the invitations sent on 3<sup>rd</sup> September 2024 were a direct implementation of the impugned Ruling and not an attempt at validation. It was the 1<sup>st</sup> and 2<sup>nd</sup> Respondents' further submission that the Petitioners had not identified any provision of the impugned Ruling that occasioned them unfairness and that the only complaint the Petitioners had was the mistaken belief that the removal process ought to be initiated through a public Petition.

31. The 1<sup>st</sup> and 2<sup>nd</sup> Respondents submitted that the Petitioners were accorded procedural fairness and fair administration action. That the Petitioners acknowledged receipt of invitations and thereafter declined to attend. The 1<sup>st</sup> and 2<sup>nd</sup> Respondents further submitted that the Petitioners exhibited bad faith. They relied on **Kenya Revenue Authority v Menginya Salim Murgani (2009) eKLR**. That the Petitioners had been accorded a chance to be heard and

they could not invoke **Articles 47** or **50 of the Constitution of Kenya.**

32. It was the 1<sup>st</sup> and 2<sup>nd</sup> Respondents' submission that the prayers sought by the Petitioners were unsustainable. That no violation of rights was established nor has prejudice been demonstrated. It was the 1<sup>st</sup> and 2<sup>nd</sup> Respondents' further submission that the Petitioners continued holding office during the pendency of these proceedings and suffered no constitutional deprivation.

33. The 1<sup>st</sup> and 2<sup>nd</sup> Respondents submitted that the 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Petitioners ceased holding office as members of the County Public Service Board on 30<sup>th</sup> September 2025. That the 1<sup>st</sup> Petitioner's tenure is to lapse on 5<sup>th</sup> December 2025 by effluxion of time. The 1<sup>st</sup> and 2<sup>nd</sup> Respondents further submitted that there was no live dispute for resolution by this court as the Petition had been overtaken by events.

34. The 3<sup>rd</sup> Respondent neither filed a response to the Petition  
neither did he file his written submissions.

35. I have gone through the Petition dated 9<sup>th</sup> September 2024,  
the 1<sup>st</sup> and 2<sup>nd</sup> Respondents' Replying Affidavit dated 14<sup>th</sup>  
October 2025, the Petitioners' written submissions dated 25<sup>th</sup>  
May 2025 and the 1<sup>st</sup> and 2<sup>nd</sup> Respondents' written  
submissions dated 15<sup>th</sup> October 2025. The singular issue that  
arose for my determination was whether this court has  
jurisdiction to determine the Petition.

36. Jurisdiction is defined in the **Black's Law Dictionary, 10<sup>th</sup>  
Edition** as: -

***"A court's power to decide a case or issue a  
decree".***

37. The Court of Appeal in **Public Service Commission & 4  
others v Cheruiyot & 20 others (Civil Appeal 119 &  
139 of 2017 (Consolidated)) [2022] KECA 15 (KLR) (8**

**February 2022) (Judgment)** discussed the issue of jurisdiction to wit: -

***“Jurisdiction is everything, it is what gives a court or a tribunal the power, authority and legitimacy to entertain a matter before it. John Beecroft Saunders in “Words and Phrases Legally Defined”, Volume 3 at Page 113 defines court jurisdiction as follows:***

***“By jurisdiction is meant the authority which a court has to decide matters that are litigated before it or to take cognizance of the matters presented in a formal way for its decision. The limits of this authority are imposed by the statute, charter, or commission under which the court is constituted, and may be extended or restricted by the like means. If no restriction or limit is imposed the jurisdiction is said to***

***be unlimited. A limitation may be either as to kind and nature of the actions and matters of which the particular court has cognizance, or as to the area over which the jurisdiction shall extend, or it may partake of both these characteristics. If the jurisdiction of an inferior court or tribunal (including an arbitrator) depends on the existence of a particular state of facts, the court or tribunal must inquire into the existence of the facts in order to decide whether it has jurisdiction; but, except where the court or tribunal has been given power to determine conclusively whether the facts exist. Where a court takes it upon itself to exercise a jurisdiction which it does not possess, its decision amounts to nothing. Jurisdiction must be acquired before judgment is given.”***

***The locus classicus on jurisdiction is the celebrated case of Owners of the Motor Vessel “Lillian S’ v Caltex Oil (Kenya) Ltd [1989] KLR 1. Nyarangi, JA relying, inter alia, on the above cited treatise by John Beecroft Saunders held as follows:***

***“...Jurisdiction is everything. Without it, a court has no power to make one more step. Where a court has no jurisdiction, there would be no basis for a continuation of proceedings pending other evidence. A court of law downs tools in respect of the matter before it the moment it holds the opinion that it is without jurisdiction.”***

***A decision made by a court of law without proper jurisdiction amounts to a nullity ab initio, and such a decision is amenable to setting aside ex debito justitiae.***

***The Supreme Court In the Matter of Interim Independent Electoral Commission [2011] eKLR, Constitutional Application No 2 of 2011 held that jurisdiction of courts in Kenya is regulated by the Constitution, statute, and principles laid out in judicial precedent. The Supreme Court at paragraph 30 of its decision held in part as follows:***

***“...a court may not arrogate to itself jurisdiction through the craft of interpretation, or by way of endeavours to discern or interpret the intentions of Parliament, where the wording of Legislation is clear and there is no ambiguity.”***

***In Samuel Kamau Macharia & another v Kenya Commercial Bank Limited & 2 others [2012] eKLR, Application No 2 of 2011, the Supreme Court reiterated its holding on a court’s***

***jurisdiction. In the matter of the Interim Independent Electoral Commission (supra) at paragraph 68 of its ruling, the Supreme Court held as follows:***

***“A court’s jurisdiction flows from either the Constitution or legislation or both. Thus, a court of law can only exercise jurisdiction as conferred by the Constitution or other written law. It cannot arrogate itself jurisdiction exceeding that which is conferred upon it by law.”***

38. It was the Petitioner’s case that the Respondents did not follow the laid down procedure when initiating their removal from office. It was their position that their removal ought to have been initiated by a Petition and not a special motion. It was their further position that the Petition ought to be brought to the 1<sup>st</sup> Respondent by a member of the public and not a Member of the County Assembly and to be specific in

this case, the 3<sup>rd</sup> Respondent. That if the 3<sup>rd</sup> Respondent was to bring such a Petition, he would bring it on behalf of a member of the public and not in his capacity as a Member of the County Assembly. On the other hand, the 1<sup>st</sup> and 2<sup>nd</sup> Respondents stated that the law and the Bomet Standing Orders allowed a member of the public including a Member of the County Assembly to bring forth a Petition for the removal of the Petitioners.

39. Additionally, the Respondents stated that the Petition had no legs to stand on as the 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> Petitioners had served out their terms as members of Bomet County Public Service Board and that the 1<sup>st</sup> Petitioner's term was due to expire on 5<sup>th</sup> December 2025. The Petitioners did not mention anything regarding their statuses as members of Bomet County Public Service Board.

40. From the above narration, it is clear to me that the main dispute between the Petitioners and the Respondents was the Petitioners' alleged removal from office as members of

Bomet County Public Service Board. In my view, the alleged development of whether or not the Petitioners served out their term as members of Bomet County Public Service Board made this an employment issue. For this court to determine the Petition, it would have to determine the employment question, a preserve of the Employment and Labour Relations Court.

41. **Article 165 (5) of the Constitution of Kenya** provides: -

**The High Court shall not have jurisdiction in respect of matters—**

- (a) reserved for the exclusive jurisdiction of the Supreme Court under this Constitution; or**
- (b) falling within the jurisdiction of the courts contemplated in Article 162(2).**

42. **Article 162 (2) of the Constitution of Kenya** provides: -

**Parliament shall establish courts with the status of the High Court to hear and determine disputes relating to—**

**(a) employment and labour relations; and**

**(b) the environment and the use and occupation of, and title to, land.**

**43. Section 12 (1) of the Employment and Labour Relations Court Act describes the jurisdiction of the court as: -**

**The Court shall have exclusive original and appellate jurisdiction to hear and determine all disputes referred to it in accordance with Article 162(2) of the Constitution and the provisions of this Act or any other written law which extends jurisdiction to the Court relating to employment and labour relations including —**

- (a) disputes relating to or arising out of employment between an employer and an employee;**
- (b) disputes between an employer and a trade union;**
- (c) disputes between an employers' organisation and a trade unions organisation;**
- (d) disputes between trade unions;**
- (e) disputes between employer organizations;**
- (f) disputes between an employers' organisation and a trade union;**
- (g) disputes between a trade union and a member thereof;**
- (h) disputes between an employer's organisation or a federation and a member thereof;**
- (i) disputes concerning the registration and election of trade union officials; and**
- (j) disputes relating to the registration and enforcement of collective agreements.**

44. In my view, it would be prudent for the appropriate court to determine the status of the Petitioners employment first.

This would allow an aggrieved party to file a constitutional Petition where a constitutional court could interrogate the process of removal, if any, and find any breach of the said party's rights as envisaged by the **Constitution of Kenya**.

45. As I pen off, I must state that even though the High Court has original and unlimited jurisdiction, the habit of clothing civil or employment suits as Constitutional Petitions must be discouraged. I concur Mutungi J. in **Grays Jepkemoi Kiplagat v Zakayo Chepkoga Cheruiyot [2021] KEELC 4674 (KLR)**, where he held that: -

***“.....I need to observe that parties are increasingly filing matters that are essentially Civil matters and christening the same as Constitutional Petitions which is not proper. Where there is the alternative remedy of filing a suit in the ordinary Civil Courts, a party ought not to invoke the jurisdiction of the Constitutional Court.”***

46. Similarly, in **Ntongai v Kaberia & 3 others** [2023] KEHC 508 (KLR), the court held: -

***“.....I agree that matters that do not call for the Court’s Constitutional interpretative mandate under the Bill of Rights should not be disguised as Constitutional Petitions seeking enforcement of the Bill of Rights.”***

47. Flowing from the above, it is my finding that I have no jurisdiction to determine the Petition and I must down my tools.

48. In the end, the Petition dated 9<sup>th</sup> September 2024 has no merit and is struck out. There will be orders as to costs.

**Judgement delivered, dated and signed at Bomet  
this 19<sup>th</sup> day of November, 2025.**

.....

**HON. J.K.NG'ARNG'AR**

**JUDGE**

**Judgement delivered in the presence of;**

**Siele and Susan (Court Assistants).**

**Wabuko for the Petitioner**

**Sang for the Respondent**

**ORIGINAL**