



Republic v Cabinet Secretary, Ministry of Interior and Coordination of National Government & 2 others; Makini School Limited & 4 others (Ex parte Applicants); Bugo (Interested Party) (Judicial Review Miscellaneous Application E084 of 2023) [2025] KEHC 16203 (KLR) (Judicial Review) (7 November 2025) (Judgment)

Neutral citation: [2025] KEHC 16203 (KLR)

REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
JUDICIAL REVIEW
JUDICIAL REVIEW MISCELLANEOUS APPLICATION E084 OF 2023
JM CHIGITI, J
NOVEMBER 7, 2025

BETWEEN

REPUBLIC APPLICANT

AND

THE CABINET SECRETARY, MINISTRY OF INTERIOR AND COORDINATION OF NATIONAL GOVERNMENT 1ST RESPONDENT

DIRECTOR OF IMMIGRATION SERVICES 2ND RESPONDENT

THE ATTORNEY GENERAL 3RD RESPONDENT

AND

THE MAKINI SCHOOL LIMITED EX PARTE APPLICANT

HORACE MPANZA MTHOMBENI EX PARTE APPLICANT

JACQUELEINE VAN DER MERWE EX PARTE APPLICANT

STEPHANUS COETSEE IZAK EX PARTE APPLICANT

GARY WAGNER EX PARTE APPLICANT

AND

NIXON BUGO INTERESTED PARTY



JUDGMENT

Applicants' Case;

1. The Application before me is the Applicants' Notice of Motion Application dated 24th October, 2023 filed under the provisions of Order 53, rule 3 of the Civil Procedure Rules, 2010, Section 3A of the [Civil Procedure Act](#), Cap. 21 Laws of Kenya, Section 49(8) of the [Kenya Citizenship and Immigration Act](#), 2011, Sections 8 and 9 of the [Law Reform Act](#), Cap. 26 Laws of Kenya and all other enabling provisions of the Law.
2. The Application is seeking the following Orders:
 - 1) That this Honourable Court be pleased to issue an order of certiorari to remove into this Court for purposes of quashing the Summons dated 31st July 2023 and issued by the 2nd Respondent herein under Section 49(8) of the [Kenya Citizenship and Immigration Act](#), 2011 requiring the 2nd, 3rd, 4th and 5th Ex-Porte Applicants to report to the Immigration Office on 3rd August 2023.
 - 2) That this Honourable Court be pleased to issue an Order of prohibition prohibiting the Respondents, their agents, servants and/or officers acting under them or otherwise from requiring to attend at their office and furnish any documents, information or particulars, investigating, searching, arresting, detaining, deporting or in any other manner acting pursuant to and in furtherance of the Summons dated 31st July 2023 and issued by the 2nd Respondent herein under Section 49(8) of the [Kenya Citizenship and Immigration Act](#), 2011 requiring the 2nd, 3rd, 4th and 5th Ex-Porte Applicants to report to the Immigration Office on 3rd August 2023.
 - 3) That this Honourable Court be pleased to grant such other orders or writs as may be fair, just, necessary and appropriate in the circumstances.
 - 4) That the costs of this Application be borne by the Respondents
3. The Application is supported by a statutory statement dated 2nd August, 2023, a supporting affidavit and supplementary affidavit by Horace Mpanza sworn on 24th October, 2023 and 16th June, 2025 respectively.
4. The 2nd Applicant, swore an affidavit on his behalf and with authority of the 3rd, 4th, and 5th Applicants; concerning a dispute arising from conduct attributed to the Interested Party, a parent at the School.
5. The Applicants, all South African nationals lawfully residing and working in Kenya under valid work permits issued by the Department of Immigration Services allege that the Interested Party, aggrieved by the termination of his contractual relationship with the School on 7th July 2023, has since engaged in a concerted campaign of harassment, defamation, and incitement against them.
6. It is their case that following the invalid convening of an Annual General Meeting (AGM) by a retired PTA Secretary, which was cancelled by the School, the Interested Party held a virtual PTA meeting on 8th July 2023, at which he made numerous false, malicious, and defamatory statements against the 1st Applicant and the 2nd Applicant personally. These included baseless allegations of armed intimidation, mismanagement, employee mistreatment, and racism.



7. It is averred that the defamatory statements gave rise to Milimani CMCC No. E3304 of 2023 – Makini School Limited & Horace Mpanza v. Nixon Bugo, in which the Court granted an interim injunction restraining further defamatory publications.
8. The Applicants contend that, further to the impugned PTA meeting, the Interested Party instigated unlawful and xenophobic resolutions calling for government investigations, deportations, and regulatory reprisals against the foreign employees of the School despite the pendency of High Court Constitutional Petition No. E43 of 2022 Dena Atieno v. Horace Mpanza & 3 Others, concerning the termination of the Interested Party’s contractual relationship with the School, the 2nd Respondent issued summons on 31st July 2023 to the 2nd to 5th Applicants without disclosing any offence under Section 49 of the *Kenya Citizenship and Immigration Act*.
9. The Applicants assert that the 2nd Respondent is being improperly used as an instrument of retaliation to settle personal grievances, in an attempt to achieve collateral purposes outside the scope of its statutory mandate under Section 49(8) of the said Act.
10. The Applicants further assert that such conduct is arbitrary, unreasonable, and amounts to an abuse of power, warranting judicial intervention to prevent unlawful deportation, reputational damage, and disruption of the 1st Applicant’s operations and investment potential.
11. The Applicants challenge the legality and propriety of summons issued to them by the 2nd Respondent, the Department of Immigration Services, claiming that the summons were not based on any lawful suspicion or investigation but were instead the result of undue influence and abuse of power.
12. The Applicants argue that the summons were issued following a complaint made by parents of students at the school, who were dissatisfied with how the school was being run and who were aggrieved by the fact that senior management positions were held by South African nationals. The Applicants contend that this complaint was purely civil in nature, raising no immigration or criminal issues, and that it was addressed to the Ministry of Education, not the immigration authorities. Despite this, the 2nd Respondent took it upon itself to intervene and issue the summons, purportedly to investigate the Applicants’ immigration status, even though the Applicants held valid and unexpired work permits at the time.
13. The Applicants further claim that the Respondents failed to carry out any investigations before issuing the summons, did not provide any reasons or suspected offences, and bypassed the due process required under the law. They emphasize that no evidence has been presented to show any violation of immigration laws or any grounds to suspect illegal presence in Kenya. Instead, the evidence including a transcript of a parents’ meeting shows that the summons were issued in retaliation, following threats by some parents who claimed to have “good connections” within the immigration office.
14. It is their case that the Respondents have failed to establish that the 2nd, 3rd, 4th, and 5th Applicants contravened Sections 53 or 54 of the *Kenya Citizenship and Immigration Act*, which set out general offences and offences related to documentation respectively, and whose violation would lawfully trigger the exercise of investigative powers culminating in the issuance of the impugned summons.
15. The Applicants assert that the Respondents did not notify them of any offence or suspected breach of the Act, the Penal Code (Cap. 63), or any other written law, nor did they indicate the existence of any investigation by themselves or the Directorate of Criminal Investigations that might have reasonably grounded a belief that they had committed an offence warranting the issuance of summons to show cause why they should not be removed from the Republic of Kenya.



16. The Applicants assert that the Respondents' actions were irrational, unlawful, and taken outside the scope of their statutory authority. They argue that the proper body to handle the issues raised in the complaint was the Ministry of Education, as the matters concerned the governance and management of a private school. The 2nd Respondent, by acting as a mediator in an educational dispute, acted ultra vires and in bad faith.
17. It is averred that the 2nd Respondent acted ultra vires by purporting to mediate a dispute between the Parents and Teachers Association and the Applicants concerning matters that fall squarely within the statutory mandate of the Ministry of Education, as established under the [Basic Education Act](#), Cap. 211. The governance and oversight of private educational institutions, including the hiring of teachers, the formation of parents' associations, and the assessment and inspection of school programs and personnel, are expressly vested in the Cabinet Secretary for Education, the Teachers Service Commission, and the County Education Boards under Sections 50, 52, and 55 of the said Act. The Complaint at the centre of the impugned summons relates primarily to the provision of educational services by the 1st Applicant, a private school, and was addressed to the Ministry of Education, not the Directorate of Immigration Services. The Respondents have failed to adduce any evidence that the Ministry of Education, or the Directorate of Criminal Investigations, referred the Complaint to the 2nd Respondent on grounds of incapacity, lack of jurisdiction, or upon making a finding of reasonable suspicion of criminality on the part of the 2nd, 3rd, 4th, and 5th Applicants. As such, the 2nd Respondent's intervention not only exceeded the scope of its statutory mandate under the [Kenya Citizenship and Immigration Act](#) but also usurped the lawful functions of the Ministry of Education.
18. It is contended that due to the unlawful nature of the summons and the potential threat of further retaliatory action, the Applicants have approached the Court seeking judicial review remedies.
19. They maintain that the Respondents' actions have violated their rights to fair administrative action, and that unless the Court intervenes, they risk unlawful interference with their continued stay and business in Kenya. They submit that the judicial review orders sought are necessary to prevent further abuse of power and to uphold the rule of law.

The Respondents Case;

20. The 2nd Respondent argues that it acted lawfully and within its statutory mandate under the [Kenya Citizenship and Immigration Act](#), 2011, in issuing summons to the 2nd, 3rd, 4th, and 5th Applicants.
21. The summons were triggered by a complaint received on 14th July 2023 from the Parents and Teachers Association (PTA) of Makini School Limited, which raised what she describes as "grave concerns" involving the Applicants, who are senior officials of the 1st Applicant (a private school).
22. According to the 2nd Respondent, it was necessary and appropriate to summon the Applicants for an administrative inquiry to allow them to respond to the concerns raised. They emphasize that the summons were issued not based on suspicion of any offence, but in the spirit of fair administrative procedure and to give both the complainants and the Applicants an opportunity to be heard.
23. The 2nd Respondent insists that her actions were intra vires under Section 49(8) of the Act, which allows immigration officers to summon non-citizens for information relevant to their immigration status.
24. The Respondents also argue that the Applicants' fear of the summons was unfounded and that their subsequent legal challenge was premature, given that they were not accused of any offence, and that no deportation or coercive action had been taken against them.



25. To further counter the Applicants' claims, the Respondents point out that all the Applicants had valid work permits, duly issued by the Directorate after they satisfied all legal requirements.
26. The Respondents reject the Applicants' suggestion that the permits were issued based on "good connections" at Immigration, arguing instead that the Applicants' own lawful status refutes that claim.
27. The Respondents concede that an attempt was made to mediate between the PTA and the Applicants, but this was interrupted by the Applicants' decision to file for judicial review stating that had the Applicants cooperated with the administrative process, the matter could have been resolved without involving the courts.
28. The Respondents submit that the 2nd Respondent, the Senior Immigration Officer, acted lawfully and within her powers under Section 49(8) of the [Kenya Citizenship and Immigration Act](#), when she issued summons to the 2nd, 3rd, 4th, and 5th Applicants following a complaint letter dated 14th July 2023 from the Parents and Teachers Association (PTA) of Makini School Limited. This letter raised "grave concerns" involving the said Applicants, prompting the 2nd Respondent to require their attendance and provide information necessary for assessing their continued stay in Kenya.
29. The 2nd Respondent contend that summoning foreign nationals to provide information related to their immigration status is a statutory function, and is not conditional upon suspicion of wrongdoing. They argue that such action is globally standard immigration practice, and was reinforced by case law such as *Mohamed v Director of Immigration Services & 2 Others* [2022] KEHC 15867 (KLR) and *Baker v Canada (Minister of Citizenship & Immigration)* 2 S. C. R 8176, which was cited with approval in *Diana Waceke Wainana v Director of Immigration Services; Serge Louodom (Interested Party)* [2022] KEHC 2134 (KLR, which highlight the duty of procedural fairness in administrative actions.
30. The 2nd Respondent stated that the summons were part of an administrative inquiry, not an enforcement action, and were issued to give the Applicants an opportunity to be heard, not to harass or intimidate them. It is denied that the claims of undue influence by the PTA or any intention to deport the Applicants, noting that deportation requires a formal order from the Cabinet Secretary, which was neither issued nor contemplated.
31. It is further submitted that the Applicants provided no evidence linking the PTA's internal discussions to the immigration summons, and that their allegations of malice and impropriety are speculative and unsupported. They argue that the Applicants pre-empted the administrative process by filing for judicial review before the investigation or any form of mediation could be completed.
32. They also submit that no illegality, irrationality, or procedural impropriety has been demonstrated, as required for judicial review. Citing multiple judicial authorities including case classicus *Pastoli v Kabale District Local Government Council and Others* [2008] 2 EA 300. The Respondents emphasize that the decision to summon was lawful, rational, procedurally proper, and in line with the principles of natural justice, Article 47 of [the Constitution](#), and the [Fair Administrative Action Act](#).
33. The Respondents therefore urge the court to dismiss the Applicants' motion, arguing that the Application is premature, baseless, and lacks merit. They argue that the Applicants have failed to meet the legal threshold for orders of certiorari or prohibition, and that granting such orders would undermine the Respondents' statutory mandate to manage immigration matters.
34. They also submit that costs should not be awarded against the Respondents, given that they acted in good faith in the lawful execution of their duties.



35. The Respondents argue that the Applicants' case is an abuse of the court process because they failed to exhaust the administrative avenues available to them before filing the case. The Respondents maintain that their actions were based on law, executed in good faith, and that the summons were a legitimate exercise of their statutory function not a result of external pressure or unlawful motive.

Analysis and Determination;

The Issues for Determination;

1. Whether the court can carry out a merit analysis.
 2. Whether the doctrine of exhaustion applies.
 3. Whether the suit has merit.
 4. Who shall bear the costs?
Whether the court can carry out a merit analysis.
36. The Applicants raised a host of factual issues while building their case. They have gone to great lengths to bring out and demonstrate to the court how the disputes at the parent teacher's platform at the school looks like.
37. The supporting affidavit is clear that it was sworn concerning a dispute arising from conduct attributed to the Interested Party, a parent at the School.
38. The Applicants allege that the Interested Party, aggrieved by the termination of his contractual relationship with the School on 7th July 2023, has since engaged in a concerted campaign of harassment, defamation, and incitement against them.
39. They advanced an argument that the Interested Party held a virtual Parents teacher Association meeting on 8th July 2023, at which he made numerous false, malicious, and defamatory statements against the 1st and the 2nd Applicants personally.
40. They argued that the evidence including a transcript of a parents' meeting shows that the summons were issued in retaliation, following threats by some parents who claimed to have "good connections" within the immigration office.
41. In the case of *Municipal Council of Mombasa –vs- Republic and Umoja Consultants Ltd*, Civil Appeal No. 185 of 2001 it was held that,

"Judicial review is concerned with the decision-making process, not with the merits of the decision itself: the court would concern itself with such issues as to whether the decision makers had the jurisdiction, whether the person affected by the decision were heard before it was made and whether in making the decision the decision maker took into account relevant matters or did take into account irrelevant matters..... The court should not act as a Court of Appeal over the decider which would involve going into the merits of the decision itself such as whether there was or there was not sufficient evidence to support the decision."
42. The Court of Appeal reiterating its judgment in *Commissioner of Lands –vs- Kunste Hotel* (1997) eKLR in *Emfil Ltd –vs- Attorney General and 2 Others* [2014] eKLR stated that judicial review is not concerned with private rights or merits of the impugned decision but to ensure that individuals are given fair treatment by the authorities to which he is subject.



43. This court is also guided by the principles as laid out in the case of *Dande & 3 others v Inspector General, National Police Service & 5 others* (Petition 6(E007), 4 (E005) & 8 (E010) of 2022(Consolidated)) [2023] KESCA40 (KLR) (16 June 2023) (Judgment), where the supreme court observed that,

“(85) It is clear from the above decisions that when a party approaches a court under the provisions of *the Constitution* then the court ought to carry out a merit review of the case. However, if a party files a suit under the provisions of Order 53 of the Civil Procedure Rules and does not claim any violation of rights or even violation of *the Constitution*, then the Court can only limit itself to the process and manner in which the decision complained of was reached or action taken and following our decision in *SGS Kenya Ltd* and not the merits of the decision per se.”

44. In the instant suit, this court has noted that the Applicants have advanced a lot of content that calls for an in-depth merit analysis. For instance; At the heading of the Application the Applicants are clear that they invoke Order 53 Civil procedure Rules, The reliefs sought are within the ambit of Order 53 of the Civil Procedure Rules. The framework, the form, the structure the body of the Application is a Judicial Review and not a Constitutional Petition.

45. The evidence that is advanced by the Applicants does not speak to content that would amount to the type of evidence that is tendered in Constitutional petitions. The court is satisfied that this is a Judicial Review Application as a result of which this court will not conduct a merit analysis.

Whether the Applicant has made out a case for the grant of the orders sought;

46. In order to succeed, The Applicant has to demonstrate to the court’s satisfaction that its case meets the principles that have been settled in the case of *Pastoli vs Kabale District Local Government Council & Others*, (2008) 2 EA 300, where it was held that:

“In order to succeed in an Application for Judicial Review, the Applicant has to show that the decision or act complained of is tainted with illegality, irrationality and procedural impropriety.

Illegality is when the decision-making authority commits an error of law in the process of taking the decision or making the act, the subject of the complaint. Acting without Jurisdiction or ultra vires, or contrary to the provisions of a law or its principles are instances of illegality....

Irrationality is when there is such gross unreasonableness in the decision taken or act done, that no reasonable authority, addressing itself to the facts and the law before it, would have made such a decision. Such a decision is usually in defiance of logic and acceptable moral standards.

Procedural impropriety is when there is failure to act fairly on the part of the decision-making authority in the process of taking a decision. The unfairness may be in non-observance of the Rules of Natural Justice or to act with procedural fairness towards one to be affected by the decision. It may also involve failure to adhere and observe procedural rules expressly laid down in a statute or legislative Instrument by which such authority exercises jurisdiction to make a decision.



47. In the instant, suit the court notes that the 2nd Respondent has the statutory power to issue summons and in exercise of this power, it issued summoned the Applicants to go to its office.
48. The court has looked at the summons which it finds to be in keeping with the Act.
49. According to the 2nd Respondent, it was necessary and appropriate to summon the Applicants for an administrative inquiry to allow them to respond to the concerns raised.
50. It is the 2nd Respondents case that the summons were issued based on the spirit of a fair administrative procedure so as to give both the complainants and the Applicants an opportunity to be heard.
51. The court is satisfied by summoning the Applicant the 2nd Respondent was discharging its duty to uphold the Applicant's right to fair hearing as guaranteed at Article 50 Constitution.
52. It is this court's finding that by summoning the Applicants to their offices, the 2nd Respondent upheld Article 47 of *the Constitution*. No legal investigations would have been completed without the 2nd Respondent hearing in both sides. Unfortunately, the Applicants blocked that process when they refused to obey the Summons.
53. The court has noted that the Respondent has repeatedly indicate that it had no intentions of departing the Applicants. The court finds that there was no sound reason why the Applicants opted not to go to obey the summons.
54. The court has further noted that the 2nd Respondent has kept its doors open to offering mediation, which the Applicants have declined to embrace.
55. The court is of the view that the Applicants moved the court without justification.

The Doctrine of Ripeness;

56. The citadel of the power to determine disputes through the exercise of judicial authority and the capacity to commence action for such determination is based on the universal concept or principle of justiciability.
57. The doctrine of justiciability encompasses such principles as the refusal of the court to make declarations to, assume jurisdiction over matters which are allocated to such other branches of the government as the legislature or the executive, refusal to decide issues which are not ripe or those which are mute.
58. By justiciability it is meant a matter "proper to be examined in courts of justice" or "a question as may properly come before a tribunal for decision": Black's Law Dictionary 9th. It further goes on to define a 'justiciable controversy' as "a controversy in which a claim or right is asserted against one who has an interest in contesting it." The other definition given of a justiciable controversy is "a question as may properly come before a tribunal for decision".
59. In other words, courts should only decide matters that require to be decided. Thus, in *Ashwander – v- Tennessee Valley Authority* [1936] 297 U.S 288, the US Supreme Court stated that courts should only decide cases which invite "a real earnest and vital controversy".
60. Effectively, the justiciability dogma prohibits the court from entertaining hypothetical or academic interest cases. The court is not expected to engage in abstract arguments. The court is prevented from determining an issue when it is too early or simply out of apprehension, hence the principle of ripeness. An issue before the court must be ripe, through a factual matrix, for determination.



61. The justiciability dogma and all principles under it are part of our Constitutional law and jurisprudence. The court in John Harun Mwau & 3 Others –v- AG & 2 others HCCP No. 65 of 2011 (unreported) stated as follows:

“We also agree with the submissions of Prof. Ghai that this Court should not deal with hypothetical and academic issues. In our view, it is correct to state that the jurisdiction to interpret *the constitution* conferred under Article 165(3) (d) does not exist in a vacuum and it is not exercised independently in the absence of a real dispute. It is exercised in the context of a dispute or controversy.”

62. In Hon. Martin Nyaga Wambora –v- Speaker of County Assembly of Embu and 5 Others HCCP No. 3 of 2014, the court observed as follows:

“It is clear from the above definition that whether a matter before a Court is justiciable or not depends on the facts and circumstances of each particular case but the Court must first satisfy itself that it has jurisdiction to entertain the matter before it can resolve the issue of justiciability.’

63. In Coalition for Reform and Democracy (CORD) & 2 Others -v- Republic of Kenya & Another HCCP 628 of 2014 [2015] eKLR, the court cited the case of Patrick Ouma Onyango & 12 Others –v- AG & 2 Others Misc. Appl No. 677 of 2005 wherein the court had endorsed the doctrine of justiciability as stated by Lawrence H. Tribe in his treatise American Constitutional Law, 2nd Ed. as follows:

“In order for a claim to be justiciable as an article III matter, it must “present a real and substantial controversy which unequivocally calls for adjudication of the rights asserted.” In part, the extent to which there is a ‘real and substantial controversy is determined under the doctrine of standing’ by an examination of the sufficiency of the stake of the person making the claim, to ensure the litigant has suffered an actual injury which is fairly traceable to challenged action and likely to be redressed by the judicial relief requested. The substantiality of the controversy is also in part a feature of the controversy itself-an aspect of ‘the appropriateness of the issues for judicial decision...and the actual hardship of denying litigants the relief sought. Examination of the contours of the controversy is regarded as necessary to ensure that courts do not overstep their constitutional authority by issuing advisory opinions. The ban on advisory opinion is further articulated and reinforced by judicial consideration of two supplementary doctrines: that of ‘ripeness’ which requires that the factual claims underlying the litigation be concretely presented and not based on speculative future contingencies and of ‘mootness’ which reflects the complementary concern of ensuring that the passage of time or succession of events has not destroyed the previously live nature of the controversy. Finally, related to the nature of the controversy is the ‘political question’ doctrine, barring decision of certain disputes best suited to resolution by other governmental actors”.

64. In the instant suit, the court is of the informed view that it was premature of the Applicants to file this suit. They denied themselves the right to fair hearing and they cannot then turn around and blame the 2nd Respondent. They are the authors of their own misfortune. The court further notes that the 2nd Respondent remains willing to embrace mediation.



Who shall bear the costs;

65. The Law governing the issue of costs in suits is set out under Section 27 of the Civil Procedure Act. The Section provides;

“Subject to such conditions and limitations as may be prescribed, and to the provisions of any law for the time being in force, the costs of and incidental to all suits shall be in the discretion of the Court or Judge, and the Court or Judge shall have full power to determine by whom and out of what property and to what extent such costs are to be paid, and give all the necessary directions for the purposes aforesaid; and the fact that the court has no jurisdiction to try the suit shall be no bar to the exercise of those powers”

66. In Republic vs. Rosemary Wairimu Munene, Ex-parte Applicant vs. Kururu Dairy Farmers Co-operative Society Ltd the court held;

“The issue of costs is the discretion of the court as provided under the above Section. The basic rule on attribution of costs is that costs follow the event it is well recognized that the principle costs follow the event is not to be used to penalize the losing party; rather it is for compensating the successful party for the trouble taken in prosecuting or defending the case”

67. Further, in the case of Musaina v General & another; Salaries and Remuneration Commission & 3 others (Interested Parties) (Petition E019 of 2023) [2024] KEHC 8239 (KLR) the High Court cited with approval the case of Republic vs Rosemary Wairimu Munene, Ex-Parte Applicant vs Ihururu Dairy Farmers Cooperative Society Ltd Judicial Review Application no 6 of 2014 where the court held as follows: -

The issue of costs is the discretion of the court as provided under the above section. The basic rule on attribution of costs is that costs follow the event..... It is well recognized that the principle costs follow the event is not to be used to penalize the losing party; rather it is for compensating the successful party for the trouble taken in prosecuting or defending the case.”

Determination;

The Application lacks merit.

Order;

The Application is dismissed with cost.

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

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J. M. CHIGITI (SC)

JUDGE

