



REPUBLIC OF KENYA



**In re Estate of Samwel Amanaka Ng'onze (Deceased) (Succession Cause 99 of 2021) [2026] KEHC 767 (KLR) (28 January 2026) (Ruling)**

Neutral citation: [2026] KEHC 767 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT VIHIGA  
SUCCESSION CAUSE 99 OF 2021**

**JN KAMAU, J**

**JANUARY 28, 2026**

**IN THE MATTER OF THE ESTATE OF SAMWEL AMANAKA NG'ONZE (DECEASED)**

**BETWEEN**

**JOYCE OPISA AMANAKA ..... PETITIONER**

**AND**

**CHRISTINE NAFULA AMANAKA ..... PETITIONER**

**RULING**

1. In her Notice of Motion dated and filed on 8<sup>th</sup> May 2019, the 1<sup>st</sup> Petitioner sought, inter alia, the following orders:-
  1. That the court be pleased to review the orders made on 10<sup>th</sup> April 2019.
  2. That Minika Indekhwa Amanaka be and is hereby declared as bona fide child of the deceased.
  3. That the 2<sup>nd</sup> Petitioner having intermeddled with the estate, be stripped off her status as a Co-Administrator of the estate of the deceased and someone else but not James Baraza be appointed in her place.
  4. That the court makes a finding that LR/West Bunyore/Es'saba/720, West Bunyore/Es'saba/828 and West Bunyore/Es'saba/1159 which were registered in the name of Joab Dickson Ng'onze form part of the free property of the deceased.
  5. That stall number C70 at Quarry Road Market, Gikomba does not form part of the distributable assets of the deceased.
  6. That the valuation be done on all those parcels of land known as West Bunyore/Es'saba/613, West Bunyore/Es'saba/1159, West Bunyore/Es'saba/720, West Bunyore/Ebusikhale/2010,



Plot No 8053/18 at Luanda Market, Umagara Wiyonere Plot No 41 at Kasarani and all the shares owned by the deceased in order to arrive at a fair way of distribution.

7. That the 2<sup>nd</sup> Petitioner be ordered to produce all the documentary evidence in her possession pertaining to all the assets she listed in Form P & A 5 which she filed in support of this Succession Petition.
8. That pending hearing and determination of this matter, the 2<sup>nd</sup> Petitioner be orderd:-
  - a. To stop using her trees, napier grass, bananas and pit latrines of the on LR West Bunyore/Essaba/613 immediately.
  - b. To immediately vacate LR West Bunyore Es'saba 613 and move to West Bunyore/Es'saba/828, West Bunyore/Es'saba/720 or West Bunyore/Ebusikhale/2010.
  - c. To immediately revert to her the wall unit she took around January 2016
  - d. To immediately revert to Victoria Nengo Amanaka Stall No C70 at Quarry Road Market, Gikomba and restrain her son, James Baraza from harassing her.
  - e. To deposit to court all the rent received by James Baraza from Stall C70 at Quarry Road Market in Gikomba for the period starting from 1<sup>st</sup> April 2018 up to now, or the equivalent thereof and to compensate Victoria Nengo Amanaka for loss of business.
9. The court makes a finding that the 2<sup>nd</sup> Petitioner lost her right as a wife when she abandoned her husband for a continuous period of more than nine (9) years and that the estate should be governed by Section 35 of Cap 160 Laws of Kenya
10. That in the alternative and without prejudice, the 2<sup>nd</sup> Petitioner be stripped of the right to participate in the proceeds of assets acquired before 1972 and those acquired after her ultimate nine-odd year desertion from August 2006 to November 2015 which included the following:-
  - a. Nation Media Group Share Certificate (Serial No 056916) issued on 30<sup>th</sup> October 2012 for twelve thousand six hundred (12,600) shares.
  - b. Nation Media Group Share Certificate No 61098 (Serial No 071078) issued on 30<sup>th</sup> October 2010 for one thousand, two hundred and sixty (1,260) bonus shares.
  - c. Kenya Commercial Bank Share Certificate No 632727 (Serial No 396038) issued on 11<sup>th</sup> August 2010 for one thousand five hundred and seventy three (1,573) shares.
  - d. Standard Chartered Bank Share Certificate No 237902 issued on 27<sup>th</sup> November 2012 for two hundred (200) shares.
  - e. Kenya Airways Share Certificate No 176932 issued on 8<sup>th</sup> August 2012 for three thousand two hundred (3200) shares.
  - f. Cooperative Bank Share Certificate No 083455 issued on 3<sup>rd</sup> July 2012 for two thousand (2000) shares.
  - g. National Bank Share Certificate No 0090833 dated 18<sup>th</sup> June 2010 for five hundred (500) shares.
  - h. Express Kenya Ltd Share Certificate No 00012973 issued on 19<sup>th</sup> October 2006 for five hundred (500) shares.



- i. Jubilee Holdings Share Certificate No 8275129 issued on 23<sup>rd</sup> July 2007 for four hundred and fifty (450) shares.
  - j. The area containing the pit latrines, bananas, napier grass and trees which were planted and/or developed by the 1<sup>st</sup> Petitioner o LR West/Bunyore/Essaba/613 between 1968 and 2018 inclusive.
11. That valuation be done of all her trees which had been used by the 2<sup>nd</sup> Petitioner and reasonable compensation be paid to her.
  12. That LR West Bunyore/Essaba/613 measuring zero decimal five (0.5) hectares, L.R West Bunyore Essaba/1159 measuring zero decimal two (0.2) hectares, Plot No 8053/18 at Luanda Market and Plot No 5625 at Dandora be given to her and her family and that their market value be put into account during the final distribution.
  13. That LR/West Bunyore/Essaba/720 measuring zero decimal three (0.3) hectares, LR Bunyore/Ebusikhale/2010 measuring zero decimal one (0.1) hectare and the two (2) houses at Kasarani be given to the 2<sup>nd</sup> Petitioner's children and that their market value be put into account during the final distribution.
2. She swore an affidavit in support of the said application on 8<sup>th</sup> May 2019. She averred that the Grant of Letters of Administration made in this matter on 21<sup>st</sup> April 2017 was confirmed on 10<sup>th</sup> April 2019. She asserted that she was not satisfied with the said orders and hence urged this court to review the same.
  3. She contended that she was married to the deceased in 1968 and lived with him until his death on 26<sup>th</sup> October 2015. She pointed out that immediately after marriage, the deceased settled her on LR West/Bunyore/Es'saba/613 where they built her present residential permanent house together with two (2) permanent pit latrines from 1968 to 1969.
  4. She stated that she planted trees, bananas, napier grass and other crops and contributed to all developments thereon and that she had been living thereon and used it undisturbed for the last fifty (50) years. She added that together with the deceased, they developed business on Plot No 8053/18 at Luanda Market and she was in charge of the construction and all businesses matters thereon.
  5. She pointed out that on or about 1974, together with the deceased, they purchased Stall C70 at Quarry Road Market, Gikomba from Belia Oyando and that they had been using the stall while paying the rent and rates. She added that in 1989 she purchased Stall No C69 from Amalea Samwel Ogita Oele at a cost of Kshs 40,000/= and was the one paying rates for the said stall.
  6. She further contended that the 2<sup>nd</sup> Petitioner was a civil servant and did not participate in the purchase development and/or running of the business on Plot No 8053/18 at Luanda or the stalls at Quarry Road Market in Gikomba or any other business at all. She asserted that when the deceased's mother Jessicah Achando fell ill in 1990, she relocated to Bunyore and nursed her till her death in 1991.
  7. She further stated that the 2<sup>nd</sup> Petitioner married the deceased in 1972 and lived with him for about twenty-two (22) years until around 1994 when she deserted him and rented a house at Eastleigh where she stayed on her own for one (1) year before going back home. She added that the 2<sup>nd</sup> Petitioner retired about 2005 and then deserted the deceased for nine (9) years from August 2006 to November 2015 and only returned after his death.
  8. She further averred that during the year 2013, the deceased tried to trace the whereabouts of the 2<sup>nd</sup> Petitioner but he was unsuccessful and that he died knowing that he had one wife which implied that Section 35 of the Law of Succession Act Cap 160 (Laws of Kenya) would be applicable herein.



9. She pointed out that the deceased owned the parcels, L/R West Bunyore Es'saba/613 measuring zero decimal five zero (0.50) hectares, L/R West Bunyore/Ebusikhale/2010 measuring zero decimal one zero (0.10) hectares, Luanda Town Plot No 8053/18 measuring zero decima zero five seven four (0.0574) hectares, Two (2) residential houses on Umagara Wiyonere Company Plot No 41 hived out of L/R 8469/4 at Kasarani and one house on Plot No 5625 at Dandora.
10. She further pointed out that the deceased also owned assets, namely, shares in Reli Cooperative Savings and Credit Society, East African Breweries Limited, Standard Chartered Bank (K) Ltd, Kenya Railways Ltd, Jubilee Holdings Ltd, Co-operative Bank of Kenya, Dunlop Kenya Ltd, National Bank of Kenya, Nation Media Group, Kenya Commercial Bank and Barclays Bank.
11. She further asserted that the deceased had cash in the following banks, namely, Standard Chartered Bank (K) Ltd, Postbank, Co-operative Bank of Kenya, National Bank of Kenya, Kenya Commercial Bank, Equity Bank, Gikomba Branch, Barclays Bank and Citibank. She added that the deceased also had Life Policy No 125159766 in American Life Insurance Company and Pension dues from Kenya Railways.
12. She was categorical that after developing the Kasarani plot, the deceased settled the 2<sup>nd</sup> Petitioner's family at Kasarani permanently while her family remained on Plot No 5625 Dandora. She pointed out that the deceased had only one brother Joab Dickson Ng'onze who died in early 1967 leaving behind, his wife Mary Joab Ng'onze and only child, Minika Indekhwa. She stated that the said wife Mary remarried elsewhere leaving the daughter who was adopted by the deceased, her mother-in-law and herself and that they brought her up and educated her.
13. It was her contention that the deceased automatically inherited the parcels of land, L/R West Bunyore Es'saba 720 (0.2) hectares, 828 (1.10) hectares and 1159 (0.20) hectares, belonging to the late Joab Dickson Ng'onze which had hitherto belonged to her father-in-law. She asserted that she had been using the said parcels with her mother-in-law since 1968 and that nobody ever questioned the deceased's right to use them until 2018 when the 2<sup>nd</sup> Petitioner wrested them from them.
14. She contended that the 2<sup>nd</sup> Petitioner had alienated West Bunyore/Es'saba/720 and 1159 to outsiders and retained L/R West Bunyore/Es'saba/828 for herself. She stated that the 2<sup>nd</sup> Petitioner was a town dweller and did not farm or plant any crops or trees on any of the parcels of land and that she did not build any house in Bunyore.
15. She further stated that whenever the 2<sup>nd</sup> Petitioner went home she would spend in her visitor's room and not at their mother-in-law's house. She asserted that when the deceased fell ill, she moved to Nairobi and nursed him until his death on 26<sup>th</sup> October 2015. She pointed out that around 2013-2014, the deceased transferred Stall No C70 at Gikomba Market to her daughter Victoria Nengo Amanaka and proceeds obtained therefrom constituted family income that was used in nursing the deceased.
16. She asserted that in 2018, the 2<sup>nd</sup> Petitioner's son, James Baraza wrested the said stall from Victoria. She was emphatic that the 2<sup>nd</sup> Petitioner and her children did not assist in nursing the deceased. She added that the 2<sup>nd</sup> Petitioner returned from her refuge in November 2015 to fight over the deceased's property and not to restore marital or conjugal relations with the deceased.
17. She pointed out that when they went to Dandora to perform their last traditional rites in January 2016, the 2<sup>nd</sup> Petitioner took away her wall unit which contained her personal effects and all the documents belonging to her and the deceased. She added that during the funeral of the deceased, the clan elders decided to construct a house for the 2<sup>nd</sup> Petitioner's children on L/R West Bunyore/Es'saba 828 and settled them with their mother in line with the Bunyore traditions.



18. She averred that the 2<sup>nd</sup> Petitioner invaded her homestead on L/R West Bunyore Es'saba/613 and illegally constructed a house for her son and that she harvested all her sweet potatoes and sold the surplus. She added that she was using and selling her bananas, trees and napier grass. She argued that she had been forced to rent land to plant food for her family. She pointed out that a family meeting was held on 3<sup>rd</sup> February 2018 and it was resolved that the 2<sup>nd</sup> Petitioner moves to L/R West/Bunyore/Es'saba/828.
19. She blamed the 2<sup>nd</sup> Petitioner for not disclosing all bank accounts and the respective branches and all the details pertaining to share certificates that she had listed in the Certificate for Confirmation of Grant to enable her know what they are supposed to be sharing. She faulted the 2<sup>nd</sup> Petitioner for intermeddling and desertion of the deceased. She averred that the shares were acquired after the 2<sup>nd</sup> Petitioner had deserted the deceased hence should not be shared equally.
20. The 2<sup>nd</sup> Petitioner swore a Replying Affidavit on 2<sup>nd</sup> December 2020. The same was filed on even date. She averred that the 1<sup>st</sup> Petitioner's application herein was based on gross apprehension of law on applications for review and sought to re-write the Judgment of this court. She added that the application was incompetent and an abuse of the due process of court for seeking orders that were untenable in law.
21. She further averred that the application was dead on arrival for requesting the court to tender and adduce evidence in favour of the 1<sup>st</sup> Petitioner thereby embarrassing the court. She asserted that the application was also incompetent for seeking orders in matters where the court did not have jurisdiction.
22. She contended that the 1<sup>st</sup> Petitioner had not disclosed the assets she purported to have not disclosed and averred that she was at liberty to disclose the same. She pointed out that she was a co-administrator and had not intermeddled in the estate of the deceased. She added that the 1<sup>st</sup> Petitioner had not discharged her duty to bring forth any such new facts or evidence she purported to have discovered after Judgment.
23. She stated that she got married to the deceased in 1972 and the deceased took her to land parcel No West Bunyore/Essaba/613. She asserted that together with the deceased, they established their first matrimonial home thereon and that she lived on her said portion on which she planted trees, bananas, among others and that upon the death of the deceased, she still lived and occupied her matrimonial home. She added that the 1<sup>st</sup> Petitioner also occupied a separate portion of the said parcel and they had lived peacefully thereon until the deceased died.
24. She contended that when the deceased married her she was already working as a civil servant and that the deceased was also working and had not done any investments. She pointed out that the only property that the deceased had was land parcel No West Bunyore/Essaba/613 which was undeveloped and which he acquired before marrying the 1<sup>st</sup> Petitioner.
25. She was categorical that together with the deceased they combined their salaries and invested in plots such as Plot No 8053/18, shares, various businesses in Nairobi and a rural home at Luanda. She stated that the businesses generated profits from which she paid rates for the stalls and as the 1<sup>st</sup> Petitioner was a house wife, she was dependant of her salary as well as the profits from the business for her livelihood.
26. She asserted that the 1<sup>st</sup> Petitioner had never participated in any income generating activities to support the deceased on any investments for the family and that she could, therefore, not claim that she acquired any property with the deceased prior to her marriage.



27. She further asserted that she lived with the deceased until his death and that when she retired, she still looked for employment and was the breadwinner for the entire family which included supporting the 1<sup>st</sup> Petitioner until the deceased died. She contended that she personally purchased Plot No Kasarani 40 and 41 from her savings but allowed the deceased to be registered in Plot No 41 since he wanted to use the title for security to secure a loan.
28. She was emphatic that the deceased did not adopt her niece, Minika Indekhwa Amanaka and that was why she did not list her as a beneficiary herein. She pointed out that she was aware that the said Minika Indekhwa Amanaka had filed a Petition for Grant of Letters Administration intestate to inherit the estate of her late father through Vihiga MC Succession Cause No 156 of 2019.
29. She further stated that both she and the 1<sup>st</sup> Petitioner lived in Nairobi and the rural home in Luanda and occasionally alternated depending on the wishes of the deceased. She added that the property known as Plot No 5625 Dandora was their joint matrimonial home in Nairobi where they both lived and raised their children and that to-date, their children still occupied the said property. She asserted she contributed to the purchase of the said plot and had maintained and furnished it using her salary for the entire period the deceased was alive.
30. She further contended that she nursed the deceased sufficiently during his illness and that she had never lived in parcel number West Bunyore/Essaba/828 as the 1<sup>st</sup> Petitioner had alleged. She added that there was no house that was demolished at the said parcel and that she never attended any meeting that resolved that she should move to the said parcel.
31. She further stated that her son had built on her portion on West Bunyore/Essaba/613 where she still lived and that she only harvested what she planted. She asserted that the parcels West Bunyore/Essaba/720, 828 and 1159 did not belong to the estate of the deceased. She was emphatic that she was a widow to the deceased and had never been divorced. She added that she contributed into the existence of the alleged shares out of her salary. It was her contention that the 1<sup>st</sup> Petitioner's application herein did not meet threshold for review and should be dismissed with costs.
32. A perusal of the record indicated that the court had directed the 1<sup>st</sup> Petitioner to file Supplementary Affidavit and Written Submissions in respect of her application herein but a look at the CTS confirmed that she did not file the same. The 2<sup>nd</sup> Petitioner's Written Submissions were dated 10<sup>th</sup> June 2025 and filed on 19<sup>th</sup> June 2025. The Ruling herein is therefore based on the parties' affidavit evidence and the said 2<sup>nd</sup> Petitioner's Written Submissions.

### **Legal Analysis**

33. The 2<sup>nd</sup> Petitioner reiterated the averments in her Replying Affidavit and added that she had proved that Minika Indekhwa Amanaka was not a daughter of the deceased and that the parcels L.R West Bunyore/Essaba/828, 720 and 1159 did not form part of the estate of the deceased. She asserted that the 1<sup>st</sup> Petitioner had not rebutted that evidence by producing any evidence to prove her averments that the said parcels belonged to the deceased and/or that Minika Indekhwa Amanaka was deceased's dependent.
34. She invoked the *Marriage Act* of 2014 and argued that the averments that she dissolved her marriage with the deceased was ill intended and aimed at falsely enriching the 1<sup>st</sup> Petitioner. She was emphatic that she was legally married to the deceased up until his death.
35. Notably, Musyoka J delivered a Judgment in this matter on 10<sup>th</sup> April 2019. A perusal of the proceedings showed that before the court could give directions on how the application herein could be



canvassed, parties raised issues about the shares of the deceased landed properties and that necessitated the court to give directions on how a survey would be carried out and the filing of the Report thereof.

36. It appeared that parties concentrated on the survey and forgot to move the court as to the hearing and determination of Application dated 8<sup>th</sup> May 2019. In its Ruling of 25<sup>th</sup> November 2025 this court had noted that it checked the Kenya Law Reports to be sure that this court did not determine the said application at any one point in time as had been argued by the 2<sup>nd</sup> Petitioner. It proceeded to set it down for hearing.
37. Notably, the review of decisions of a Probate court is governed by Rule 63 of the Probate and Administration Rules, which provides as follows:-

“Application of Civil Procedure Rules and High Court (Practice and Procedure) Rules

- (1) Save as is in the Act or in these Rules otherwise provided, and subject to any order of the court or a registrar in any particular case for reasons to be recorded, the following provisions of the Civil Procedure Rules, namely Orders V, X, XI, XV, XVIII, XXV, XLIV and XLIX (Cap. 21, Sub. Leg.), together with the High Court (Practice and Procedure) Rules (Cap. 8, Sub. Leg.), shall apply so far as relevant to proceedings under these Rules.”

38. Any party who was seeking review of orders, in a probate and succession matter, was therefore bound by the provisions of Order 45 of the Civil Procedure Rules which states as follows:

“

“1.

- (1) Any person considering himself aggrieved—
- (a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred; or
- (b) by a decree or order from which no appeal is hereby allowed, and who from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or the order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree or order, may apply for a review of judgment to the court which passed the decree or made the order without unreasonable delay.”

39. The said Order 45 of the Civil Procedure Rules provides for three (3) instances when an order for review could be sought. To be successful, the applicant was required to demonstrate that there had been discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed. Secondly, the applicant was required to demonstrate that there has been some mistake or error apparent on the face of the record. The third ground for review was worded broadly. In this regard, an applicant could demonstrate any other sufficient reason.

40. The relationship of Rule 63 of the Probate and Administration Rules and Order 45 of the Civil Procedure Rules was restated in the case of John Mundia Njoroge & 9 Others vs Cecilia Muthoni Njoroge & Another [2016] eKLR where the court therein held that Order 45 of the Civil Procedure



Rules, 2010 was imported into succession practice by Rule 63 of the Probate and Administration Rules.

41. A reading of the Judgment of this court herein, dated 10<sup>th</sup> April 2019 indicated that the court widely addressed itself to the who were the rightful beneficiaries of the deceased's estate herein and which assets alleged formed part of the estate of the deceased. The issue of whether the parcels number L.R West Bunyore/Essaba/828, 720 and 1159 belonged to the deceased arose and the court found that the same were in the name of Joab Dickson Ng'onzze. The court found and held as follows:-

“There are three official receipts issued in 1964 and 1965 under the Land Registration (Special Areas) Act and the Land Adjudication Act in respect of 720/Essaba, 828/Essaba and 1159/Essaba in the names of Joab Ngonze and Dickson Ngonze.”

42. Going further, the issue of whether one Iminika Indekhwa Amanaka was a beneficiary of the estate herein did not arise in the said decision. The 1<sup>st</sup> Petitioner did not dispute the list of names of her children and/or dependents of the deceased that the 2<sup>nd</sup> Petitioner had listed on the application for Confirmation of Grant. The court ascertained that the 1<sup>st</sup> Petitioner had eight (8) children while the 2<sup>nd</sup> Petitioner had five (5) children.

43. At the end, the court rendered itself as follows:-

“I shall accordingly make the following final orders -

- (a) That I declare that the deceased was survived by two widows; being Joyce Opisa Amanaka, who had the following children with the deceased, that is to say, the late Belma Asami (survived by Irene Akinyi and David Odhiambo), Dickson Esikumo, Dorcus Afwande, Doreen Ayitso, Beryl Alice, Victoria Nengo, late Victor Nanjero (survived by Rina Olwanzo and Ryan Amanaka) and Brenda Onyeti; and Christine Nafula Amanaka who had the following children with the deceased, that is Josiah Ng'onzze, Zablon Osoo, Jesca Achando, Daniel Muchesi and James Baraza;
- (b) That I declare that the property that he has been proven to have died possessed of is Kakamega/Bunyore/Ebusikhale/2010, LR No. 8053/18 Luanda Township, W Bunyore/Essaba/613, Plot No 41 Kasarani Plot Certificate, 450 shares in Jubilee Holdings Limited, shares in Reli Cooperative Savings and Credit Society Limited, shares in East Africa Breweries Limited, 93 shares in Standard Chartered Bank Kenya Limited, 3200 shares in Kenya Airways, 2000 shares in Cooperative Bank of Kenya, 1200 shares in Dunlop Kenya Limited, 700 shares in National Bank of Kenya Limited, 500 shares in Express Kenya Limited, 13860 shares in Nation Media Group Limited, shares in Kenya Commercial Bank and a pension with Kenya Railways...”

44. Thus, the issue of one Iminika Ikhendwa Amanaka being a dependent appeared as a discovery of new and important matter or evidence which, after the exercise of due diligence, was within the 1<sup>st</sup> Petitioner's knowledge or could be produced, at the time when the decree was passed. Be that as it may, she did not sufficiently proved dependency on the part of the said Iminika Ikhendwa Amanaka. On the other hand, the 2<sup>nd</sup> Petitioner produced a Petition and Affidavit in Vihiga Succession No 156 of 2019 which indicated that the said Iminika Ikhendwa Amanaka had filed succession cause to inherit from the estate of her father.



45. In the premises, there was nothing in the 1<sup>st</sup> Petitioner's application that showed that there was discovery of new and important matter of evidence, or that there was a mistake or error apparent on the face of the record, or that there was sufficient reason for this court to review the Judgment of this court on 10<sup>th</sup> April 2019.
46. This court noted that the 1<sup>st</sup> Petitioner was seeking to re-open issues which ought to have been handled during the hearing. It was the view of this court that she had not demonstrated why the several orders that she sought should be granted after Judgment had been delivered and distribution done.

### **Disposition**

47. For the foregoing reasons, the upshot of this court's decision was that the 1<sup>st</sup> Petitioner's Notice of Motion application dated and filed on 8<sup>th</sup> May 2019 was not merited and the same be and is hereby dismissed with costs to the 2<sup>nd</sup> Petitioner herein.
48. It is so ordered.

**DATED AND DELIVERED AT VIHIGA THIS 28<sup>TH</sup> DAY OF JANUARY 2026**

**J. KAMAU**

**JUDGE**

