REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAIROBI

ELCL PETITION NO. E074 OF 2025

SAMORA SIKALIEH (suing as the Chairman of KAREN & LANGATA DISTRICT ASSOCIATION (KLDA) ……. PETITIONER

VERSUS

VALLEY OAK PROPERTIES LIMITED……1ST RESPONDENT

NAIROBI CITY COUNTY GOVERNMENT…… 2ND RESPONDENT

THE COUNTY EXECUTIVE COMMITTEE MEMBER PHYSICAL PLANNING AND LAND USE OF NAIROBI CITY COUNTY …… 3RD RESPONDENT

CHIEF OFFICER, URBAN DEVELOPMENT AND PLANNINGOF THE NAIROBI CITY COUNTY GOVERNMENT …… 4TH RESPONDENT

THE CABINET SECRETARY MINISTRY OF LANDS & PHYSICAL PLANNING …… 5TH RESPONDENT

THE ATTORNEY GENERAL OF KENYA ……. 6TH RESPONDENT

RULING

1. By a Notice of Motion dated 7th November 2025, brought pursuant to the provisions of **Article 50(1)** of the **Constitution** and **Rule 25** of the **Constitution of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules, 2013**, the 1st Respondent/Applicant seeks the following orders: THAT

i. An Order be and is hereby issued setting aside the orders made by this Court on 3rd November 2025.

ii. In alternative to the above the court be pleased to vary the Orders made on 3rd November 2025 by allowing the 1st Respondent's applications for development approvals and permits in respect of the subject project to be processed by the Nairobi City County Government and any other Regulatory body in line with the 2021 Draft Nairobi City Development Control Policy.

iii. The Court does issue an order staying these proceedings for 6 months or otherwise pending the filing by the Nairobi City County Government of a Compliance Report attaching the enacted instruments, a participation report, and a capacity concurrency statement as ordered by the Court of Appeal on 19th September 2025 in Nairobi Civil Appeal No. E160 of 2025.

iv. The Court be otherwise pleased to strike out the Petition for want of jurisdiction and for breach of the doctrine of exhaustion.

v. The Cost of this Application and the Petition, if struck out, be borne by the Petitioner.

2. The Motion is supported by the affidavit of Phillipe Cauviere, the 1st Respondent's Project Manager of an even date. He deponed that on 3rd November 2025, this court issued interim orders whose effect was to suspend the processing and approval of the 1st Respondent's applications for permits relating to the proposed development of multi-dwelling units and a clubhouse on L.R No 1160/398 and 1160/39o along Quarry Lane, Karen, Nairobi.

3. The 1st Respondent's Project Manager deposed that the orders also require that any approvals be undertaken strictly in accordance with the Karengata Local Physical Development Plan of 2006, suspend the approvals sought from the Ministry of Lands for change of user and amalgamation of the said parcels; and impose a general restraint on the approval of all applications by the 1st Respondent by any regulatory authority, including bodies not party to the proceedings.

4. He averred that at the time the impugned orders were made, the 1st Respondent's development applications were still pending consideration by the Nairobi City County

Government and, save for approvals relating to change of user and amalgamation, no determination had been communicated by the County.

5. It was his position that the mandate to assess and determine the propriety of development applications lies with the Nairobi City County Government, before whom the Petitioner had an opportunity to present its objections and representations. He contended that the Petition improperly invites this court to assume the role of the County planning authorities by interrogating the merits of a pending development application, contrary to the statutory framework governing development control.

6. Further, he opined, even assuming a decision had been made on the development application, which he denied, the appropriate remedy lay in an appeal to the Nairobi City County Physical and Land Use Planning Liaison Committee. He maintained that the Petition amounts to an abuse of process in respect of the approvals for change of user and amalgamation, which had been granted in September and November 2024. The Petitioner, having failed to lodge an appeal within the statutory 60-day period, is said to be improperly seeking recourse before this court without exhausting the remedies provided by law.

7. In addressing the orders of 3rd November 2025, the deponent placed reliance on the judgment of the Court of Appeal delivered on 19th September 2025 in **Nairobi Civil Appeal**

No. E160 of 2025, Claire Kubachi Anami & Others v Nairobi City County & Others. He explained that the Court of Appeal directed the County Government to finalise, approve and gazette comprehensive zoning and development control plans within six months, file interim and final compliance reports, and to allow registered residents' associations to comment on those reports.

8. The Court of Appeal further held that pending development applications were to continue being processed under the Physical and Land Use Planning Act, 2019 and the extant regulations, guided by the 2021 Development Control Policy, and clarified that pre-2010 zoning instruments lacked overriding legal force under the post-2010 constitutional and statutory framework. He deposed that the appellate court emphasized that planning functions lie with the County's democratic and technical institutions and not with the courts.

9. According to Mr. Cauviere, the interim orders issued by this court are inconsistent with the foregoing decision, particularly in so far as they require compliance with the Karengata Local Physical Development Plan of 2006, a pre-2010 zoning instrument, notwithstanding the Court of Appeal's pronouncement that such instruments have been overtaken by the 2010 Constitution and the Physical and Land Use Planning Act, 2019.

10. It was further stated that the Karengata Local Physical Development Plan, in any event, was time-bound to a ten-year period commencing in 2006 and had expired in 2016. The deponent asserted that, given the supervisory jurisdiction retained by the Court of Appeal during the transitional period, this court ought to defer to that mandate by striking out or staying the Petition.

11. He also characterized the interim orders as excessive and disproportionate, contending that they restrain approvals relating to change of user and amalgamation despite no specific grievance having been pleaded on those issues, and that they imposed a global suspension on regulatory bodies such as the National Environment Management Authority and the National Construction Authority, which were not parties to the proceedings.

12. The 1st Respondent's Project Manager urged that the application be allowed to avert a conflict between this court's orders and those of the Court of Appeal, and to prevent this court from being drawn into matters falling within the statutory jurisdiction of other bodies.

13. In response to the Motion, the Petitioner, through its Chairman, Samora Sikalieh, filed a Replying Affidavit sworn on 5th December 2025. He disputed the contention that this court lacks jurisdiction, maintaining that the Petition raises substantive constitutional questions concerning public participation, the right to a clean and healthy environment,

and sustainable development under **Articles 10, 42** and **69** of the **Constitution**, which cannot be adequately addressed by the County Physical and Land Use Planning Liaison Committee.

14. In any event, it was urged, the Liaison Committee had suspended its operations as at November 2024, rendering the exhaustion of that remedy impracticable. He deponed that the application is legally untenable, being premised on a clear misinterpretation of the judgment of the Court of Appeal in **Civil Appeal No. E160 of 2025, Claire Kubachi Anami & Others (suing as officials of Rhapta Road Residents Association) v Nairobi City County & Others.**

15. Contrary to the 1st Respondent's contention, he explained, the Court of Appeal did not lift or suspend zoning and planning controls in Nairobi. Rather, it affirmed the continued relevance of planning governance and recognized the supervisory jurisdiction of the Environment and Land Court in matters raising systemic and constitutional questions relating to land use and urban planning.

16. In that context, he maintained that the suit properties, situated along Quarry Lane in Karen, remain subject to the applicable planning framework, and in particular fall within a low-density residential zone under the Karen Local Physical Development Plan, which, it was contended, continues to govern development in the area.

17. Mr. Sikalieh contended that the interim orders of 3rd November 2025 were necessary to preserve the substratum of the Petition, warning that permitting amalgamation and change of user would irreversibly alter the character of the area before the Petition was heard. The deponent argued that development approvals are multi-agency processes and that restraining all relevant approvals is a necessary and logical consequence of the challenge raised.

18. He urged that the Motion has been made in bad faith, an abuse of process and is an attempt to create a regulatory vacuum that will allow the 1st Respondent to proceed with development during the transitional period identified by the Court of Appeal, thereby undermining judicial oversight and the Petitioner's constitutional rights. He urged that the Motion be dismissed. None of the parties had filed submissions as at 11th February, 2025.

Analysis and Determination

20. Having considered the Motion and the response, the issues that arise for determination are:

a. *Whether the present Petition should be struck out for want of jurisdiction by this court; and if not?*
b. *Whether the orders of 3rd November, 2025 should be varied and/or set aside?*
c. *Whether the present proceedings should be stayed?*

21. Vide the present Motion, the 1st Respondent seeks to have the Petition dismissed. It is asserted that this court lacks jurisdiction to entertain the Petition on the ground that the dispute relates to development approvals and zoning matters which fall within the statutory mandate of the County Physical and Land Use Planning Liaison Committee. Consequently, it was argued, the Petition contravenes the doctrine of exhaustion.

22. In response, the Petitioner contends that this court is properly seized of jurisdiction, the dispute raising weighty constitutional questions touching on the right to a clean and healthy environment and the legality of the approvals issued. It is further contended that in any event, the statutory exhaustion mechanism is, in the present circumstances, unavailable and impracticable, owing to the suspension of the County Physical and Land Use Planning Liaison Committee, and that the Petition therefore falls within the recognized exceptions to the doctrine of exhaustion.

23. It is trite that jurisdiction is everything. This was succinctly captured by Nyarangi, J.A. in ***Owners of Motor Vessel 'Lillian S' vs Caltex Oil (Kenya) Limited [1989] KLR 1:***

> ***"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 its tools in respect***

of the matter before it the moment it holds the opinion that it is without jurisdiction…Where a court takes it upon itself to exercise jurisdiction which it does not possess, its decision amounts to nothing. Jurisdiction must be acquired before judgment is given."

24. The jurisdictional contention herein is with regards the doctrine of exhaustion. This requires a party to exhaust any alternative dispute resolution mechanism provided by the statute before resorting to courts. Speaking to the ambit and rationale for this doctrine, the Court of Appeal in ***Geoffrey Muthinja and Another vs Samuel Muguna Henry & 1756 others [2015] eKLR*** observed as follows:

"It is imperative that where a dispute resolution mechanism exists outside courts, the same be exhausted before the jurisdiction of the courts is invoked. Courts ought to be the fora of last resort and not the first port of call the moment a storm brews within churches, as is bound to happen. The exhaustion doctrine is a sound one and serves the purpose of ensuring that there is a postponement of judicial consideration of matters to ensure that a party is first of all diligent in the protection of his own interest within the mechanisms in place for resolution outside of courts. This accords with Article 159 of the

Constitution which commands Courts to encourage alternative means of dispute resolution."

25. In the case of ***William Odhiambo Ramogi & 3 Others vs Attorney General & 4 Others: Muslims for Human Rights & 2 Others (Interested parties) [2020] eKLR,*** a five-judge bench held as follows:

"The question of exhaustion of administrative remedies arises when a litigant, aggrieved by an agency's action, seeks redress from a Court of law on an action without pursuing available remedies before the agency itself. The exhaustion doctrine serves the purpose of ensuring that there is a postponement of judicial consideration of matters to ensure that a party is, first of all, diligent in the protection of his own interest within the mechanisms in place for resolution outside the Courts…"

26. The court went on to outline the exceptions to the rule as follows:

"As observed above, the first principle is that the High Court(read ELC) may, in exceptional circumstances consider and determine that the exhaustion requirement would not serve the values enshrined in the Constitution or law and

allow the suit to proceed before it. It is also essential for the Court to consider the suitability of the appeal mechanism available in the context of the particular case and determine whether it is suitable to determine the issues raised.

The second principle is that the jurisdiction of the Courts to consider valid grievances from parties who lack adequate audience before a forum created by a statute, or who may not have the quality of audience before the forum which is proportionate to the interests the party wishes to advance in a suit must not be ousted. The rationale behind this precept is that statutory provisions ousting the Court's jurisdiction must be construed restrictively. This was extensively elaborated by Mativo J in Night Rose Cosmetics (1972) Ltd v Nairobi County Government & 2 others [2018] Eklr.

In the instant case, the Petitioners allege violation of their fundamental rights. Where a suit primarily seeks to enforce fundamental rights and freedoms and it is demonstrated that the claimed constitutional violations are not mere "bootstraps" or merely framed in Bill of Rights language as a pretext to gain entry to the Court, it is not barred by the doctrine of exhaustion..."

27. Turning to the facts of this case, vide the Petition dated 2nd September, 2025, the Petitioners seek, among others, declarations that the 2nd -4th Respondents actions in granting approvals of change of user with respect to parcels L.R 1160/398 and 1160/390 violates *inter-alia*, **Articles 10(1)** & **(2) (c)** of the **Constitution,** their rights to a clean and healthy environment under **Article 42,** and various provisions of the **Physical and Land Use Planning Act.**

28. The Petitioner also seeks orders of mandamus directed to the 2nd Respondent to maintain a register of all change of user applications and approvals, and the 5th Respondent to publish guidelines within 90 days of the creation of the register on how the public shall have access to the register in compliance with **Section 62** of the **Physical and Land Use Planning Act.** Also sought are permanent injunctive orders restraining developments on the suit parcel that violates the Petitioner's rights to a clean and healthy environment.

29. The Petitioner challenges the proposed development on several fronts. First, it is contended that the project is inconsistent with the applicable zoning framework, particularly the Karen Local Physical Development Plan. Secondly, the Petitioner asserts that no meaningful public participation was undertaken, contrary to **Articles 10, 47** and **69** of the **Constitution.**

30. It is further alleged that the development threatens to infringe the members' right to a clean and healthy environment, and that its implementation will place undue strain on existing infrastructure and public amenities, including water supply, sewerage and drainage systems, and the surrounding road network.

31. It is not in dispute that matters of development control, planning permission, and zoning ordinarily fall within the statutory framework of the Physical and Land Use Planning Act, 2019. Under **Sections 76** and **78** of the **Act**, the County Physical and Land Use Planning Liaison Committee is vested with jurisdiction to hear and determine complaints relating to development applications, appeals against decisions of the planning authority, enforcement notices, and to advise the County Executive Committee Member on planning policy. An appeal therefrom lies to this court.

32. However, the Petition before this court is not confined to a challenge against a planning decision simpliciter. In addition to contesting the legality of the approvals issued, the Petitioner alleges violations of constitutional rights, including the right to a clean and healthy environment, public participation, and lawful, reasonable and procedurally fair administrative action. The Petition as such is multi-faceted in nature.

33. The Supreme Court has clarified that the doctrine of exhaustion does not admit of a rigid or mechanical application where disputes raise multi-faceted claims. In ***Benson Ambuti Adega & Others vs Kibos Distillers Ltd & Others [2020] eKLR***, the court emphasized judicial restraint and deference to specialized statutory bodies where issues fall squarely within their mandate, while cautioning courts against arrogating jurisdiction merely on the basis of omnibus pleadings.

34. In ***Nicholas Abidha vs Attorney General & Others [2023] eKLR,*** the court affirmed that where a petitioner alleges violations of constitutional rights, particularly the right to a clean and healthy environment and where statutory mechanisms lack the jurisdiction or capacity to grant the constitutional reliefs, the Environment and Land Court retains the original jurisdiction.

35. The Apex Court reconciled these positions by adopting a nuanced, case-by-case approach, requiring courts to interrogate the nature of the dispute, the adequacy and efficacy of alternative remedies, and whether constitutional claims are genuine or merely a pretext to circumvent statutory processes.

36. Applying those principles to the present dispute, and having regard to the constitutional violations alleged and the multi-faceted character of the Petition, the court is not persuaded

that the claims herein constitute a mere smoke screen designed to evade the doctrine of exhaustion.

37. Further, the statutory forum relied upon by the Respondents was, on the evidence, unavailable. At the time the County Physical and Land Use Planning Liaison Committee suspended its sittings in November 2024, the Petitioner was still within the statutory timelines for lodging an appeal, the decision complained of having been made on 20th September, 2024 and it cannot therefore be said that the Petitioner failed to pursue or deliberately bypass an available remedy.

38. In light of the foregoing, the objection founded on the doctrine of exhaustion is found to be unmerited and the plea to strike out the Petition fails.

39. **Rule 23** of the **Constitution of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules, 2013 (the Mutunga Rules)** provides for the grant of conservatory or interim orders and states as follows:

> ***"Conservatory or interim orders***
>
> ***(1) Despite any provision to the contrary, a Judge before whom a petition under rule 4 is presented shall hear and determine an application for conservatory or interim orders."***

40. The Mutunga Rules further contemplate the variation, discharge or setting aside of conservatory orders. In ***Ndii & Others vs Attorney General & Others (Petition Nos. E282, 397, E400, E401, E402, E416 & E426 of 2020 & Petition No. 2 of 2021 (Consolidated)) [2021] KEHC 8196 (KLR),*** the court held that conservatory orders may be applied for, varied or discharged at any stage of the proceedings where circumstances so permit. The court expressed itself thus:

> ***"In our view, conservatory orders may be applied for or varied at any stage of proceedings as long as the circumstances permit. This is our understanding of Rule 25 of the Constitution of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules, 2013 which provides that an order issued under rule 22 may be discharged, varied or set aside by the Court either on its own motion or on application by a party dissatisfied with the order."***

41. It is clear that the *Mutunga Rules* do not prescribe a specific procedural framework for review or setting aside of conservatory orders. As such, and guided by the well settled exposition that where a lacuna exists, the **Civil Procedure Act** and the **Civil Procedure Rules** apply as the parent procedural framework, regard will be had to the Act and rules aforesaid.

42. This court's power to review its own decisions is set out in **Section 80** of the **Civil Procedure Act** and **Order 45 Rule 1** of the **Civil Procedure Rules**. **Section 80** of the **Civil Procedure Act** provides as follows:

> ***"80. Any person who considers himself aggrieved —***
>
> ***(a) by a decree or order from which an appeal is allowed by this Act, but from which no appeal has been preferred; or***
>
> ***(b) by a decree or order from which no appeal is allowed by this Act,***
>
> ***may apply for a review of judgment to the court which passed the decree or made the order, and the court may make such order thereon as it thinks fit."***

43. **Order 45 Rule 1(1)** of the **Civil Procedure Rules, 2010** provides:

> ***"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."

44. Discussing the scope of review, the Court of Appeal in ***Benjoh Amalgamated Limited & Another vs Kenya Commercial Bank Limited [2014] eKLR*** observed:

"In the High Court, both the Civil Procedure Act in section 80 and the Civil Procedure Rules in Order 45 rule 1 confer on the court power to review… Rule 1 of Order 45 shows the circumstances in which such review would be considered… but section 80 gives the High Court greater amplitude for review."

45. Turning to the facts, contemporaneously with the Petition, the Petitioner filed a Notice of Motion seeking, *inter alia*, temporary injunctive and conservatory orders restraining the Respondents from commencing development, seeking or obtaining approvals in breach of the Karengata Local

Physical Development Plan, and restraining the issuance of a certificate of title reflecting a change of user.

46. The Respondents did not file any response to that Motion. On 3rd November 2025, this court, noting the absence of a response and upon consideration of the material placed before it, found the Motion merited and granted prayers 4 and 5 thereof.

47. By the present Motion, the 1st Respondent now seeks to set aside those orders, contending that their effect was to halt the processing and approval of its development applications by the Nairobi City County Government and other regulatory bodies, notwithstanding that the applications were still pending within the statutory planning framework.

48. It is argued that, in issuing the impugned orders, this court impermissibly intervened in an ongoing administrative process and assumed a role reserved for planning authorities under the **Physical and Land Use Planning Act, 2019.**

49. Central to the 1st Respondent's case is the judgment of the Court of Appeal delivered on 19th September, 2025 in **Nairobi Civil Appeal No. E160 of 2025, Claire Kubachi Anami & Others v Nairobi City County & Others**. It is contended that the Court of Appeal directed that pending development applications continue to be processed under the extant statutory framework, guided by the 2021 Draft

Nairobi City Development Control Policy, pending the enactment of comprehensive planning instruments.

50. On that basis, the 1st Respondent asserts that the interim orders issued by this court, particularly those requiring strict adherence to the Karengata Local Physical Development Plan of 2006 and restraining approvals by multiple regulatory agencies are inconsistent with and undermine the supervisory directions of the Court of Appeal.

51. In response, the Petitioner maintains that the 1st Respondent has misconstrued both the scope and effect of the Court of Appeal's decision. It is contended that the appellate court did not suspend zoning controls or insulate development approvals from judicial oversight, but rather, recognized the continued relevance of planning governance while affirming the supervisory jurisdiction of this court in matters raising systemic and constitutional concerns.

52. The orders of 3rd November 2025, it was argued, were preservatory in nature and intended to forestall irreversible change pending the determination of serious questions touching on public participation, environmental protection, and the legality of the approvals impugned in the Petition.

53. Upon a careful evaluation of the present Motion, the court is satisfied that the arguments advanced by the 1st Respondent fall outside the parameters contemplated for review or setting aside orders. The 1st Respondent has not

demonstrated the discovery of any new and important matter or evidence that was unavailable, despite due diligence, at the time the orders were issued; nor has it identified any mistake or error apparent on the face of the record, or established any other sufficient reason recognised in law.

54. Instead, the arguments advanced fall into two impermissible categories. The first category comprises matters that ought to have been raised in opposition to the initial application for conservatory orders, including the assertions that the approvals were legitimately issued, the assertion that the dispute ought to have been ventilated before the County Physical and Land Use Planning Liaison Committee in line with the doctrine of exhaustion; and the reliance on the 2021 Draft Nairobi City Development Control Policy as the operative planning framework.

55. The second category of arguments advanced by the 1st Respondent invites this court to interrogate the correctness, scope and practical effect of the orders issued on 3rd November 2025.

56. In asserting that the interim orders are inconsistent with, or undermine, the judgment and supervisory directions of the Court of Appeal in **Nairobi Civil Appeal No. E160 of 2025,** the 1st Respondent is, in substance, inviting this court to revisit and reassess its own decision on the basis of an alleged misapprehension or misapplication of appellate authority. Such an exercise falls outside the limited confines

of the court's review jurisdiction and properly lies within the province of an appellate forum.

57. Review is not a vehicle for re-arguing the merits of a decision, correcting an alleged error of interpretation of a superior court's judgment, or mounting a collateral appeal against this court's own orders. The plea for setting aside the orders of this court and alternative plea for variation fails.

58. The last issue to consider is whether the court should stay the present proceedings. Black's Law Dictionary, Ninth Edition, defines a proceeding as:

> ***"(1) The regular and orderly progression of a law suit, including all acts and events between the time of commencement and the entry of judgment; (2) any procedural means of seeking redress from a tribunal or agency; (3) an act or step that is part of a larger action; (4) the business conducted by a Court or other official body, a hearing."***

59. The general principles which guide the courts whenever they are invited to exercise jurisdiction to stay proceedings are best summarized in **Halsbury's Law of England, 4th Edition, Vol 37 at pages 330 and 332** as follows:

> ***"The stay of proceedings is a serious, grave and fundamental interruption in the right that a party***

has to conduct his litigation towards the trial on the basis of the substantive merits of his case, and therefore the court's general practice is that a stay of proceedings should not be imposed unless the proceedings beyond all reasonable doubt ought not to be allowed to continue."

60. Speaking to the same, the court in ***Ferdinard Ndung'u Waititu vs Independent Electoral & Boundaries Commission (IEBC) & 8 others [2013] eKLR*** persuasively stated thus:

"A stay of proceedings involves arresting or stopping proceedings. It is a tool used to suspend proceedings to await the action of one of the parties in regard to some step or some act (see Black's Law Dictionary). This implies that the rationale for stay is the pendency of an act or step either required by the court or sought by a party. It may be grounded on a statutory provision or on the need of a party and based on a plea for the plenary exercise of the court's discretion."

61. As an alternative plea, the 1st Respondent asks this court to stay of proceedings for six months pending the filing of compliance reports by the Nairobi City County Government

pursuant to the judgment of the Court of Appeal in Nairobi Civil Appeal No. E160 of 2025.

62. The supervisory directions issued by the Court of Appeal were not intended to suspend constitutional litigation or to divest this court of its jurisdiction to determine live disputes alleging ongoing or threatened violations of constitutional rights.

63. To accede to a blanket stay would have the effect of deferring judicial scrutiny, while permitting the very regulatory uncertainty complained of, thereby exposing the Petitioners to irreparable prejudice. In the circumstances, the court is not persuaded that a stay would advance the interests of justice.

64. In the end, the Motion dated 7th November, 2025 is found to be unmerited and is dismissed with costs.

Dated, signed and delivered virtually in Nairobi this 19th day of February, 2026.

O. A. Angote

Judge

In the presence of:

Mr. Mutungi for the Petitioner

Mr. Ataka for the 1st Respondent

Mr. Mativo for the 2nd, 3rd and 4th Respondents

Court Assistant - Tracy