



**Ncharo v County Assembly of Kajiado & 3 others (Petition E056 of 2023) [2024] KEELRC 624 (KLR) (15 March 2024) (Judgment)**

Neutral citation: [2024] KEELRC 624 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
PETITION E056 OF 2023  
AN MWAURE, J  
MARCH 15, 2024**

**BETWEEN**

**JEREMIAH NCHARO ..... PETITIONER**

**AND**

**THE COUNTY ASSEMBLY OF KAJIADO ..... 1<sup>ST</sup> RESPONDENT**

**THE SPEAKER, COUNTY ASSEMBLY OF KAJIADO ..... 2<sup>ND</sup> RESPONDENT**

**THE CLERK, COUNTY ASSEMBLY OF KAJIADO ..... 3<sup>RD</sup> RESPONDENT**

**THE GOVERNOR, COUNTY ASSEMBLY OF KAJIADO ..... 4<sup>TH</sup> RESPONDENT**

**JUDGMENT**

1. The Petitioner filed a Petition dated 24<sup>th</sup> March 2023.

**Petitioner’s Case**

2. The Petitioner avers that he was appointed by the 4<sup>th</sup> Respondent to serve as County Executive Committee (CEC) member in charge of Education, Vocational Training, Youth and Sports at the County Government of Kajiado and subsequently his appointment was extended for a term of 3 years vide a letter dated 27.09.20232.

3. The Petitioner avers that Hon. Jonathan Koilekan Koroine, MCA Mosire Ward presented a motion dated 21.02. 2023 before the County Assembly of Kajiado for the removal of the Petitioner from office on grounds of alleged gross violation of *the constitution* and other relevant laws, abuse of office and incompetence. The proposed motion was supported by 16 members of the County Assembly of Kajiado who appended their signatures in support of the motion.

4. The Petitioner avers that the motion was approved by the 2<sup>nd</sup> Respondent on 21.02.2023 and on 07.03.2023, the 1<sup>st</sup> Respondent passed a resolution pursuant to Standing Order No. 62 (7) of



- the Kajiado County Assembly Standing Orders approving the nomination of a 5 member Select Committee to investigate the removal of the Petitioner from office.
5. The Petitioner avers that he raised a preliminary objection challenging the independence and impartiality of the Select Committee and the legality of using amended Standing Order No.62 of the Kajiado County Assembly Standing Orders which the High Court has suspended vide an order issued in Kajiado High Court Constitutional Petition No. E004 of 2023.
  6. The Petitioner averred that despite acknowledging existence and validity of the court order, the Select Committee proceeded with the investigation and impeachment proceedings unabated and in total disregard of the prohibitory order.
  7. The Petitioner averred that the Select Committee failed the impartiality test as it proceeded to hear the matter notwithstanding the Chairperson and one other member were conflicted by virtue that they had initially supported the impeachment motion and the Chairman's electoral ward formed part of the subject matter of the allegations against the Petitioner.
  8. The Petitioner says that on 21.03.2023, the 1<sup>st</sup> Respondent passed a resolution to remove the Petitioner from office and by a letter dated the same date, the 2<sup>nd</sup> Respondent asked the 4<sup>th</sup> Respondent to implement the resolution as contained in the Select Committee's report, effectively directing the 4<sup>th</sup> Respondent to dismiss the Petitioner from his employment.
  9. The Petitioner avers that he was dragged through a flawed process that violated his constitutional rights to a fair hearing and the national values and principles of governance enshrined under Article 10 (1) of *the Constitution* which binds the 1<sup>st</sup> Respondent.
  10. He further averred that the resolution passed by the 1<sup>st</sup> Respondent failed the legitimate expectation test as he expected a fair objective and impartial process. Despite providing sufficient evidence to support his case, the 1<sup>st</sup> Respondent acted indifferently to achieve a predetermined outcome.
  11. The Petitioner avers that he has been victimised and denied his right and unless this court intervenes, the illegal resolution passed by the 1<sup>st</sup> Respondent will be implemented and the Petitioner will be dismissed unlawfully without regard to the due process enshrined under Article 236(b) of *the Constitution*.

#### **The 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Respondent's Case**

12. In opposition to the Applicant's application the Respondents' filed a replying affidavit dated 17.14.2023 and further replying affidavit dated 2.05.2023 sworn by the 3<sup>rd</sup> Respondent, Josiah Leboo Saisa Yiaro.
13. The Respondents' aver that the Petitioner was duly and lawfully removed from the office on 21.03.2023 pursuant to a resolution passed by the 1<sup>st</sup> Respondent and that the impeachment was initiated under the provisions of the Kajiado County Assembly Standing Order, 2017 in tandem with Section 40 of the County Government Act.
14. They aver that on 07.03.2023, the select investigation committee invited the Petitioner to appear for a hearing held on 11.03.2023 vide a letter which also informed the Petitioner of his choice to appear in person and/or be represented by an advocate received by the Petitioner on 08.03.2023 at 9.00 am.
15. The Respondents aver that at the time of the preparation and approval of the notice of motion seeking the removal of the Petitioner from office, the appointment of members of the select committee and



- preparation and service of the letter of invitation to the Petitioner on 08.03.2023 the Respondent had no knowledge of existence of any court order and had not been served with any court order.
16. The Respondents aver that the court order issued in Henry Namiti Shitanda v County Speaker of Kajiado County & 2 others (Constitutional Petition E004 of 2023) was served and received by the 1<sup>st</sup> Respondent barring it from the implementation of the amendment of standing order 62 of the Kajiado County Assembly Standing Order, 2017 pending hearing and determination of the Petitioner's application.
  17. The Respondents aver that the effect of the ex parte orders issued in Shitanda v County Speaker of Kajiado County & 2 others (Constitutional Petition E004 of 2023) [2023] did not stop or stay the proceedings, procedures and business of the 1<sup>st</sup> Respondent and particularly the impeachment of any CEC member or at all.
  18. The Respondents aver that Petitioner's impeachment was not in contempt of any court orders or violation of any laws as alleged by the Petitioner as the 1<sup>st</sup> Respondent was guided by the Constitution and County Government Act which are supreme and overriding the impugned standing order.
  19. The Respondents aver that the ex-parte orders were obtained irregularly and fraudulently and they filed an application dated 10.03.2023 to set aside the said court orders. The application was heard on priority basis and vide a ruling dated 15.05.2023, the ex-parte orders issued in Shitanda v County Speaker of Kajiado County & 2 others (Constitutional Petition E004 of 2023) [2023] were quashed and set aside and the court proceeded to strike out the entire Petition.
  20. The Respondents aver that the impeachment of the Petitioner proceeded under the provisions of Section 40 of the County Governments Act as sanctioned by Article 191 (2)(a) of the Constitution which provides that in the event of conflict of laws between county and national legislation, national legislation shall prevail.
  21. The Respondents aver that the Petitioner's contention that he was not granted a fair hearing by the 1<sup>st</sup> Respondent on account that two members of the Select Committee were conflicted in the proceedings is factually false and legally hollow and cannot stand.
  22. The Respondents aver that the two members of the selective committee, Hon Loisa John Ntione Lemayian and Hon. Semeyian Amos Solitei were selected to represent their respective coalition of parties in the 1<sup>st</sup> Respondent and not their respective wards and their participation in the selective committee was to investigate the alleged irregularities across the 25 wards in the county.
  23. The Respondents state that there is no conflict arising as the two members were lawfully executing their constitutional roles of oversight of the county government and the decision to remove the Petitioner and any other CEC member is made by and lies with the plenary of all members of the county assembly as provided under Section 40 of the County Government Act and not the two members of the Select Committee.
  24. The Respondents aver that the Petitioner has not demonstrated the interest of the two members which could compromise the Select Committee's partiality and objectivity in the investigations as the members were exercising the delegated sovereign authority under Article 1 (2) of the Constitution.
  25. The Respondents aver that the Petitioner has not substantiated the allegations that his impeachment was politically motivated as the same was based on the findings of the Select Committee.
  26. The Respondents aver that the Select Committee followed due process and the Petitioner was accorded a right to be heard and informed of his right to be represented; which right he exercised by appointing



the firm of Kibet Korir & Co Advocates to represent him. The Petitioner was given an opportunity and he presented his defence on each accusation.

27. The Respondents aver that the Petitioner was not able to debunk the evidence in support of the allegations against him both at Committee Stage and County Assembly Plenary. The Petitioner was lawfully impeached following the resolution by the 1<sup>st</sup> Respondent pursuant to Section 40(1) of the County Government Act.
28. The Respondents aver that the 2<sup>nd</sup> Respondent prepared and presented a Certificate of Removal as required under Section 40(6) of the County Government Act which was duly delivered and received by the 4<sup>th</sup> Respondent for implementation.
29. The Respondents aver that the Petitioner's impeachment was not marred by any procedural irregularities, witch hunt or any other relevant considerations as alleged but the same was based on serious allegations of gross abuse of office and misconduct which were substantiated by the Select Committee and approved by the 1<sup>st</sup> Respondent's plenary sitting after the Petitioner was given an opportunity to be heard.
30. The Respondents aver that this court lacks jurisdiction to reopen, interfere with or sit as an appellate court to reconsider the findings of the Select Committee or the resolutions made by the 1<sup>st</sup> Respondent on the substantiated grounds for removal of the Petitioner as provided under Section 40 of the County Government Act.

#### **4<sup>th</sup> Respondent's Case**

31. The 4<sup>th</sup> Respondent avers that the 1<sup>st</sup> Respondent unprocedurally amended its standing orders contrary to its standing order 234 that mandated the 1<sup>st</sup> Respondent procedure and rules committee to consider the request and report before the county assembly. However, the amendment was effected within 2 days instead of 21 days which was unparliamentary, unprocedural and legislatively defective.
32. The 4<sup>th</sup> Respondent avers that on 8.03.2023, the 1<sup>st</sup> Respondent was served with the conservatory orders issued in *Shitanda v County Speaker of Kajiado County & 2 others (Constitutional Petition E004 of 2023) [2023]* which suspended the implementation of standing order 62(7) which was the basis of the impugned impeachment process.
33. It is the 4<sup>th</sup> Respondent's stand that the 1<sup>st</sup> Respondent defied the court order and carried out the Petitioner's impeachment process under the amended standing orders and constituted a select committee. The 1<sup>st</sup> Respondent removed the Petitioner from office on 21.03.2023 and subsequently the 2<sup>nd</sup> Respondent prepared a certificate of removal under Section 40 (6) of the County Government Act which was served upon the 4<sup>th</sup> Respondent.
34. The 4<sup>th</sup> Respondent averred that the 1<sup>st</sup> Respondent ought to have halted the impeachment process and moved the high court to set aside/ vary the order first before it proceeded with the Petitioner's impeachment.
35. The 4<sup>th</sup> Respondent averred that the impeachment process of a CEC member under Section 40 of the County Government Act is regulated by standing orders of the county assembly and as such the doctrine of separation of powers protects it from interference from the court.
36. Further, the motion of removal of the Petitioner was wanting in form and procedure and cannot be proper and competent but rather null and void ab initio and cannot be a basis for a fair outcome or due process.



### **Petitioner's Submissions**

37. The Petitioner submitted that unless this court grants a conservatory order restraining the 4<sup>th</sup> Respondent from implementing the 1<sup>st</sup> Respondent's resolution passed on 21.03.2023, the Petitioner is likely to suffer prejudice because he will be removed from office based on a resolution riddled with impropriety and procedural deficiencies.
38. The Petitioner submitted that this court is clothed with jurisdiction to hear and determine matters raised in the notice of motion and the petition. He submitted that whereas the jurisdiction of the Employment and Labour Relations Court is limited by Article 162(2) of *the Constitution*, the court has jurisdiction to hear and determine constitutional violations on fundamental rights and freedoms arising from an employer employee relationship as well as disputes arising under Article 41 of *the Constitution*.
39. The Petitioner submitted that these proceedings were necessitated by the 1<sup>st</sup> Respondent's action to consider a motion of removal of the Petitioner from office using an impugned standing order whose implementation had been suspended by the High Court and therefore the Petitioner/Petitioner has a cause of action against the Respondents and the proceedings are justified in law and not an abuse of court process as alleged by the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Respondents.
40. The Petitioner submitted that he moved the court timeously to protect the substratum of this petition and that the absence of a conservatory order would prejudice the Petitioner since the implementation of the passed 1<sup>st</sup> Respondent's resolution would have rendered the petition nugatory.
41. The Petitioner submitted that it is in public interest for citizens and public bodies obey judicial authority and it is in public interest impeachment proceedings should be conducted fairly, impartially and in a manner that does not undermine constitutional rights and freedoms of persons subjected to the impeachment process. He further submitted it would be against public interest to allow the 1<sup>st</sup> Respondent's resolution to go unchallenged yet it was in breach of a court order.
42. The Petitioner submitted that the 1<sup>st</sup> Respondent has an obligation to conduct impeachment proceedings in accordance with the rules of fairness, natural justice and equity. He has a legitimate expectation of substantive justice and the 1<sup>st</sup> Respondent will conduct any investigation and/or impeachment proceedings by following due procedure.

### **The 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Respondent's Submissions**

43. The Respondents submitted that this court has no jurisdiction to entertain the merits of the resolution passed by the 1<sup>st</sup> Respondent to impeach and remove the Petitioner from the position of CEC.
44. The Respondents submit that it is trite law that under the doctrine of separation of powers, a state organ cannot be subject to the control or authority in the exercise of functions or powers vested in the public body by *the constitution* or legislation.
45. It was further submitted by the Respondents that Article 185(3) of *the Constitution* clothes the county assemblies with powers to oversight the CEC and other county executive organs and Section 40 of the County Government Act governs county assemblies' powers to commence investigations and resolve



to remove CEC members from office. And section 10 of the County Assembly Powers and Privileges Act expressly provides: -

“No proceedings or decision of a county assembly or the committee of powers and privileges in accordance with this Act shall be questioned in any court.”

46. The Respondents’ submitted that in view of the express powers given to county assemblies by *the Constitution* and County Government Act, this court cannot sit to reopen and reconsider the merits of its decision to remove the Petitioner in exercise of its legislative power.
47. The Respondents submitted that the Petitioner has failed to establish any violation of his constitutional rights in the 1<sup>st</sup> Respondent’s action to remove him from office and neither has he shown any evidence to prove any bias, unfairness or conflicted decision of the 1<sup>st</sup> Respondent, the select committee or any of its members to warrant grant of the orders sought.
48. The Respondents submit that a cursory perusal of the Petitioner’s evidence pleadings shows that the 1<sup>st</sup> Respondent duly complied with strict procedure set out under Section 40 of the County Government Act which has been accepted as the fair, transparent, lawful and constitutional procedure for the removal of the CEC by the county assembly in exercise of its constitutional oversight role under Article 185 (3) of *the Constitution* and placed reliance in the decision made in *County Government of Nyeri & another v Cecilia Wangechi Ndungu [2015] eKLR* and *George Maina Kamau v County Assembly of Muranga & 2 others [2016] eKLR*.
49. The Respondents submitted that the allegations of conflict of interest by the 2 members of the select committee do not fall within the provisions of Section 12(1) of the Public Officers Ethics Act, 2003 to warrant the courts consideration. Further, there is no allegation that the said members had personal interests in the investigation and/or allegations against the Petitioner and have not been enjoined in the suit herein to afford them an opportunity to respond to the unsubstantiated allegations.
50. The Respondents submitted the impugned court order only suspended the implementation of the amendment made to the provisions of Standing Order No. 62 (1) (b) and 62 (7), meaning the old provisions of Standing Order 62 that were in force and would remain operative and effective. The court order was as follows:-

That pending the determination of this Application interparties conservatory order be and is hereby granted suspending the implementation of the amendment of standing order No 62 of the Kajiado County Assembly Standing Orders, 2017 (emphasis ours)

51. The Respondents further submitted that the documents relating to the proceedings for removal of the Petitioner makes no reference to Standing Order 62 as the proceedings and resolutions were undertaken and concluded solely pursuant to *the Constitution* and Section 40 of the County Government Act.

#### **4<sup>th</sup> Respondent’s Submissions**

52. The 4<sup>th</sup> Respondent submitted that Section 40 of the County Government Act and Standing Order 62 of the County Assembly of Kajiado sets out the grounds upon which a CEC member can be impeached and procedure to be followed. The 1<sup>st</sup> Respondent cannot proceed and execute a motion without basing it on standing orders.
53. The 4<sup>th</sup> Respondent submitted that the impeachment process of a CEC member under Section 40 of the County Government Act is regulated by the county assembly standing orders and as such the



doctrine of separation of powers protect it from interference from the court, however, the courts have held that the said protection is not absolute and it can be interfered with if *the Constitution* or another law has been violated.

### **Analysis and Determination**

54. Having considered the Petition, affidavits and submissions submitted by the parties, the issues for this court's determination are:
- a. Whether this court has jurisdiction to hear and determine this matter;
  - b. Whether the proceedings for the removal of the Petitioner from office was unconstitutional;
  - c. Whether the Petitioner is entitled to the orders sought.

### **Whether this court has jurisdiction to hear and determine this matter**

55. In Idris Aden Mukhtar & 2 others v County Government of Garissa & another [2015] eKLR the court relied in the case of Richard Bwogo Birir v Narok County Government & 2 others - Industrial Court Nakuru Petition No. 1 of 2014 cited in the Erastus Nyamori case and the court found that:

“the court has its mandate to consider the legality or otherwise of any state action and consider whether the law and procedure has been adhered to. Under Article 162 (2) (a) of *the Constitution* the court also has power to determine any issues relating to employment and labour relations and the issue of separation of power cannot arise if the court is interpreting regulations. I therefore find that this court has jurisdiction to make a finding on prayers sought herein.”

56. In view of the aforementioned case, this court has jurisdiction to determine the matter herein.

### **Whether the proceedings for the removal of the Petitioner from office was unconstitutional**

57. The Petitioner submitted that the County Assembly acted unlawfully and unfairly by conducting impeachment proceedings based on a procedure set out in a suspended standing order. The impeachment motion clearly made reference to reliance on Section 40 of the *County Governments Act* and Standing Order 62 of the Kajiado County Assembly Standing Orders.
58. The Respondents (1<sup>st</sup>-3<sup>rd</sup>) however submitted that the allegation that the proceedings were undertaken pursuant to the Amended Standing Order No. 62 is factually incorrect and misleading as it was conducted pursuant to Section 40 of the County Government Act.
59. Section 40 of the County Government Act espouses on removal of a member of the executive committee as follows:

- “(1) Deleted by Act No. 11 of 2020, s. 14.
- (2) A member of the county assembly, supported by at least one-third of all the members of the county assembly, may propose a motion requiring the Governor to dismiss a county executive committee member on any of the following grounds —
- a. gross violation of *the Constitution* or any other law;
  - b. incompetence;



- c. abuse of office;
  - d. gross misconduct; or
  - e. if convicted of an offence punishable by imprisonment for at least six months.
- (3) If a motion under subsection (2) is supported by at least one-third of the members of the county assembly—
- a. the county assembly shall appoint a select committee comprising five of its members to investigate the matter; and
  - b. the select committee shall report, within ten days, to the county assembly whether it finds the allegations against the county executive committee member to be substantiated.
- (4) The county executive committee member has the right to appear and be represented before the select committee during its investigations.
- (5) If the select committee reports that it finds the allegations—
- a. unsubstantiated, no further proceedings shall be taken; or
  - b. substantiated, the county assembly shall vote whether to approve the resolution requiring the county executive committee member to be dismissed.
- (6) If a resolution under subsection (5)(b) is supported by a majority of the members of the county assembly—
- a. the speaker of the county assembly shall promptly deliver the resolution to the Governor; and
  - b. the Governor shall dismiss the county executive committee member.”

60. The respondents have also raised the issue of conflict between a National Government law and County Government laws. Where there is a conflict between National and County Legislation, Article 191 of [\*the Constitution\*](#) provides as follows;

- “(1) This Article applies to conflicts between national and county legislation in respect of matters falling within the concurrent jurisdiction of both levels of government.
- (2) National legislation prevails over county legislation if—
- (a) the national legislation applies uniformly throughout Kenya and any of the conditions specified in clause (3) is satisfied; or
  - (b) the national legislation is aimed at preventing unreasonable action by a county that—
    - (i) is prejudicial to the economic, health or security interests of Kenya or another county; or



- (ii) impedes the implementation of national economic policy.
- (3) The following are the conditions referred to in clause (2)(a) --
- (a) the national legislation provides for a matter that cannot be regulated effectively by legislation enacted by the individual counties;
  - (b) the national legislation provides for a matter that, to be dealt with effectively, requires uniformity across the nation, and the national legislation provides that uniformity by establishing—
    - i. norms and standards; or
    - ii. national policies; or
  - (c) the national legislation is necessary for—
    - (i) the maintenance of national security;
    - (ii) the maintenance of economic unity;
    - (iii) the protection of the common market in respect of the mobility of goods, services, capital and labour;
    - (iv) the promotion of economic activities across county boundaries;
    - (v) the promotion of equal opportunity or equal access to government services; or
    - (vi) the protection of the environment.
- (4) County legislation prevails over national legislation if neither of the circumstances contemplated in clause (2) apply.”

61. The petitioner was invited to the meeting of his impeachment to appear on 11<sup>th</sup> March 2023 and he was asked to indicate if he would appear in person or through an advocate. He was represented by Kibet Korir advocate and he had been informed the invitation was in accordance to section 40 of the County Government Act and standing order 62 of the county. The petitioner therefore participated in the deliberations as provided in article 40 of the County Government Act.

62. It is trite law that where specific provision provide mechanisms of resolving disputes the same should be exhausted as per the specific legislation. Article 185 of *the Constitution* of Kenya give county assembly legislative and oversight authority. Hence the respondents were well within their mandate to take the petitioner through the disciplinary/impeachment process under section 40.

63. The court is guided by the case of George Maina Kamau vs County Assembly of Muranga & 2 Others 2016 eKLR the court held :

“The 2<sup>nd</sup> issue for determination is whether the court enjoys the jurisdiction by way of judicial review or otherwise, to look into the merits of the alleged grounds for removal of the petitioner under section 40 of the County Government Act. The court finds that as submitted for the 1<sup>st</sup> and 2<sup>nd</sup> respondent. In balance of alleged illegality the respondent



were proceeding under section 40 of the county governments act, 2012 and in line with the doctrine of justiciability, the court returns that it would not look into the merits of the alleged grounds for removal of the petitioner under the said section 40. Returning to this point as earlier highlighted by the court in this judgment, the court will not therefore delve into the details of the particulars of the allegations made against the petitioner in the process undertaken by the 1<sup>st</sup> respondent under section 40 of the act.”

64. Also in the case of County Government of Nyeri and Another vs Cecilia Wangechi Ndungu (supra) the Court of appeal noted that section 40 of the County Government Act was one of the available legal provisions for removal of a county executive committee member from the office.
65. In view of the foregoing, the Petitioner’s argument fails, as the Respondents acted well within section 40 of the County Government Act which prevails over the standing orders.
66. The Petitioner does not deny that the Respondents conducted the impeachment process within the conduits of section 40 of the County Government Act but mainly avers that the process was unconstitutional due to independence and impartiality of the Select Committee and the legality of using amended Standing Order No.62 of the Kajiado County Assembly Standing Orders which the High Court had suspended vide an order issued in Kajiado High Court Constitutional Petition No. E004 of 2023.
67. This court takes note that vide a ruling delivered on 15<sup>th</sup> May 2023, the court struck out the entire petition Constitutional Petition No. E004 of 2023.
68. In respect to the issue of partiality of the Select Committee the Petitioner has not provided any satisfactory evidence of the conflict of interest of the two members of the Select Committee in respect to the allegations against them. It is trite law that in accordance to section 108 of the Evidence Act he who alleges must prove.
69. The Petitioner’s claim of partiality is based on the ground that the Chairperson and one other member were conflicted by virtue that they had initially supported the impeachment motion and the Chairman’s electoral ward formed part of the subject matter of the allegations against the Petitioner.
70. The said reasons are not enough to claim partiality and/or biasness of the two members. The process was undertaken by a proper constituted committee as set out in a section 40 of the County Government Act.
71. Accordingly, Petitioner’s claim that the proceedings for his removal from office were unconstitutional lacks merit and are not proved on balance of probability.
72. Having established the above, the Petition dated 24<sup>th</sup> March 2023 is dismissed and reliefs sought are declined.
73. Each party will meet their respective costs.
74. Orders accordingly.

**DATED, SIGNED AND DELIVERED VIRTUALLY IN NAIROBI THIS 15<sup>TH</sup> DAY OF MARCH, 2024.**

**ANNA NGIBUINI MWAURE**

**JUDGE**

**ORDER**



In view of the declaration of measures restricting Court operations due to the COVID-19 pandemic and in light of the directions issued by His Lordship, the Chief Justice on 15<sup>th</sup> March 2020 and subsequent directions of 21<sup>st</sup> April 2020 that judgments and rulings shall be delivered through video conferencing or via email. They have waived compliance with Order 21 Rule 1 of the Civil Procedure Rules, which requires that all judgments and rulings be pronounced in open Court. In permitting this course, this Court has been guided by Article 159 (2) (d) of *the Constitution* which requires the Court to eschew undue technicalities in delivering justice, the right of access to justice guaranteed to every person under Article 48 of *the Constitution* and the provisions of Section 1B of the Procedure Act (Chapter 21 of the Laws of Kenya) which impose on this Court the duty of the Court, inter alia, to use suitable technology to enhance the overriding objective which is to facilitate just, expeditious, proportionate and affordable resolution of civil disputes.

A signed copy will be availed to each party upon payment of Court fees.

**ANNA NGIBUINI MWAURE**

**JUDGE**

