



**Mwirigi v Cabinet Secretary, Ministry of Gender, Culture, Arts & Heritage & 2 others;  
 Women Enterprise Fund Advisory Board (Interested Party) (Employment and Labour  
 Relations Petition E206 of 2023) [2024] KEELRC 623 (KLR) (13 March 2024) (Judgment)**

Neutral citation: [2024] KEELRC 623 (KLR)

**REPUBLIC OF KENYA  
 IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
 EMPLOYMENT AND LABOUR RELATIONS PETITION E206 OF 2023  
 AN MWAURE, J  
 MARCH 13, 2024**

**BETWEEN**

**CHARLES MWIRIGI ..... PETITIONER**

**AND**

**CABINET SECRETARY, MINISTRY OF GENDER, CULTURE, ARTS &  
 HERITAGE ..... 1<sup>ST</sup> RESPONDENT**

**PRINCIPAL SECRETARY, STATE DEPARTMENT OF GENDER &  
 AFFIRMATIVE ACTION (MINISTRY OF GENDER, CULTURE, ARTS &  
 HERITAGE) ..... 2<sup>ND</sup> RESPONDENT**

**ATTORNEY GENERAL ..... 3<sup>RD</sup> RESPONDENT**

**AND**

**WOMEN ENTERPRISE FUND ADVISORY BOARD ..... INTERESTED PARTY**

**JUDGMENT**

**Introduction**

1. The Petitioner filed a Petition dated 1<sup>st</sup> November 2023.

**Petitioner’s Case**

2. The Petitioner avers that on 10.08.2023, he was unlawfully and illegally suspended from work by the 1<sup>st</sup> Respondent in excess of her mandate without jurisdiction or consultation with the Interested Party and without any evidence in support of the said drastic action.



3. The Petitioner avers that the suspension was not approved or discussed by the Interested Party or communicated to them. The Interested Party as the oversight body has never summoned the Petitioner for any show cause and or asked him to answer any charges at any point.
4. The Petitioner avers that the allegations of possible embezzlement of funds at Women Enterprise Fund ('WEF') by the 1<sup>st</sup> Respondent are unfounded and non-existent.
5. The Petitioner avers that he is not under any investigations by Ethics and Anti-Corruption Commission ('EACC') or any other government agency in regard to the alleged possible embezzlement of funds and thus the 1<sup>st</sup> Respondent's decision to suspend him was in total breach of law and in violation of his fundamental rights and freedom.
6. The Petitioner avers that over the years, he has received commendation letters for his exemplary performance on all assigned tasks and excellent ratings on all appraisals by the Interested Party.
7. The Petitioner avers that due to the illegal suspension, he has suffered and continues to suffer harassment, embarrassment, discrimination and victimization since the Respondents have by all means necessary trumped up allegations on investigations of possible embezzlement of funds at Women Enterprise Fund so that the Interested Party can have a reason to terminate his employment.
8. The Petitioner avers that the 1<sup>st</sup> and 2<sup>nd</sup> Respondent have used their powers to intimidate, dress down and make unlawful decisions importing that he is incapable of conducting and performing his duties at WEF and as such not fit to work as Chief Executive Officer ('CEO') of the organisation.
9. The Petitioner avers that the Respondents have displayed open bias and discrimination of the Petitioner in public meetings and forums.
10. The Petitioner avers that he is on half pay and without any other benefits or allowances and is unable to feed for his family or meet his financial burdens which includes loans and mortgages deducted from his salary.
11. The Petitioner avers that unless this court intervenes and stems the illegalities being perpetuated by the 1<sup>st</sup> Respondent, he will be unlawfully and unfairly terminated from employment.

### **Respondents' Case**

12. In opposition to the Petition, the Respondents filed its response dated 30<sup>th</sup> November 2023.
13. The Respondents aver that the Petitioner is an employee of the WEF as the Chief Executive Officer following his reappointment on 30.09.2019 by the then Cabinet Secretary for Gender, Prof. Margaret Kobia, Ph.D, MGH.
14. The Respondents aver that the Petitioner was suspended by the Cabinet Secretary, Ministry of Public Service, Gender and Affirmative Action vide letter REF. No. MPSG & AA.10/6 dated 10.08.2023 to pave way for investigations on allegations of embezzlement of funds at WEF by EACC which initiated investigations.
15. The Respondents aver that the investigations came against a backdrop of adverse findings by the Auditor General and ongoing investigations on the appointment of senior members of WEF including the variation and extension of contracts of employment of staff of WEF.
16. The Respondents aver that section 5(1) of Legal Notice No. 147 of 2007 establishes WEF Advisory Board and outlines its membership while section 5(3) stipulates the functions of the Advisory Board



that it shall oversee the management of the fund and advise the Minister generally on the operations of WEF.

17. The Respondents avers that the section 2.4.4 of the Human Resource Terms and Conditions for Service provides that: “The CEO shall be appointed by the Advisory Board on contract terms of service of a 5-year period”. This does not preclude the function to the Board only as it is clearly set out under the Public Service Commission Human Resource Policies and Procedures Manual for the Public Service under section A.6 (iii) which provides for the role of the Cabinet Secretary in relation to WEF to include “Steering the Strategic Human Resource Management matters in the Ministry”. This implies WEF being an agency is under the Ministry of Gender, Culture, Arts and Heritage.
18. The Respondents aver that vide letter REF. No. MPSG & AA.10/6 dated 10.08.2023, the Cabinet Secretary invoked section 25(1) of the Leadership and Integrity Regulations, 2015 and section 51(1) *Interpretation and General Provisions Act* to suspend the CEO.
19. The Respondents aver that it is contradictory for the Petitioner to claim that the Cabinet Secretary lacks powers to suspend since his reappointment was made by the Cabinet Secretary legally positioning the same powers to suspend and ultimately fire.
20. The Respondents aver that the Petitioner has been found liable as the overall accounting officer over various issues that amounts to gross misconduct among them EACC has initiated an investigation into possible embezzlement of funds at WEF for the period 2008-2019.
21. The Respondents aver that in June 2023, the National Assembly Special Funds Accounts Committee report cited several cases of lack of lawfulness and effectiveness in the use of public resources in WEF by the Accounting Officer. It further made serious observations including breach of procurement laws, tax laws and Public Service Human Resources Policies and Procedures.
22. The Respondents aver that the National Assembly Special Funds Accounts Committee made several recommendations including reprimanding the Accounting Officer for violating the Public Procurement Asset Disposal Act and instituting disciplinary measures against him for violating public procurement procedures.
23. The Respondents aver that the Petitioner acted averse and Executive Directive of the President of the Republic on reengineering of WEF including approving disbursement of Kshs 23 million to 2 financial intermediaries in March/April 2023 after the approval of the WEF New Business Model and Presidential Directive to discontinue the old manual model.
24. The Respondents aver that the Petitioner was cited for negligence of duty by the Head of Public Service through the Office of the Principal Secretary for non-compliance with values and principles of the public service leading to issuance of a stern warning from the 2<sup>nd</sup> Respondent.

### **Interested Party’s Case**

25. The Interested Party avers the suspension is legal and procedural as it is in line with section 51(1) *Interpretation and General Provisions Act* read together with Regulation 25 of the Leadership and Integrity Regulations, 2015. The Petitioner was interdicted pending the outcome of the investigations in line with Section 4.2.2 (2)(b) of the Public Service Commission Discipline Manual, 2022 and is on half basic salary, full allowance and medical insurance cover.
26. The Interested Party avers that prior to the decision to suspend the Petitioner, it advised the 1<sup>st</sup> Respondent on the operations of the fund and its challenges coupled with the adverse findings by the



Auditor General for the financial year ended 2022 vide its letter dated 09.06.2023 which culminated the investigations of embezzlement of funds.

27. The Interested Party avers that vide letters dated 28.04.2023 and 09.05.2023, the Head of Public Service cited the Petitioner for negligence of duty for non-compliance with values and principles of the Public Service which led to issuance of the warning letter on his misconduct.
28. The Interested Party avers that the Petitioner being the overall Accounting Officer of WEF was indeed summoned by EACC who are still investigating the embezzlement of funds and was summoned in April 2023 to record statements which has been concealed to this court.
29. The Interested Party avers that it advised the 1<sup>st</sup> Respondent on its challenges to oversee its operations and held various meetings with the 1<sup>st</sup> and 2<sup>nd</sup> Respondent which resolved to suspend the Petitioner to pave way for investigations.
30. The Interested Party avers that upon the Auditor General's adverse findings of WEF audited reports for 2022, the embezzlement of funds was communicated to the Petitioner and the issues raised therein he was in a better position to answer and guide investigators as the overall Accounting Officer pursuant to section 6(1) of the WEF Regulations which he cannot run away from.
31. The Interested Party avers that unless the Petitioner is confirming his appointment is illegal ab initio, it follows the appointing authority has the power to suspend/interdict hence the suspension was legal, proper, procedural and the 1<sup>st</sup> Respondent acted within the law and capacity as WEF falls under her ministry.

#### **Petitioner's Submissions**

32. The Petitioner submitted that the purpose of suspension was allegedly to pave way for investigations into allegations levelled against him. However, the Petitioner having been on leave for two months prior to the suspension, the Respondents failed to carry out all manner of investigations that they wanted to do and instead went ahead to cook documents to try and fix him for non-existent issues.
33. It is the Petitioner's submission that section A 6(iii) of the Public Service Commission Human Resource Policies and Procedure Manual does not adorn the 1<sup>st</sup> Respondent with powers to micromanage WEF and or to suspend the CEO, therefore, the 1<sup>st</sup> Respondent acted without mandate and in excess of her powers.
34. The Petitioner submitted that his indefinite suspension vide the letter dated 10.08.2023 issued by the 1<sup>st</sup> Respondent is not only illegal, unlawful and in total contravention of Articles 10, 19 (2), 20 (2), 21 (1), 22, 23, 27, 41, 47, 50 (1), 159, 162 and 258 of *the Constitution* of Kenya, 2010, this amounts to constructive termination of his employment.
35. The Petitioner submitted that the suspension is indefinite, prolonged and there is no limit of time, this is an illegal termination of his employment. He relied on the case of Joseph Ndungu VS Mastermind Toobaco (K) Ltd (2014) eKLR.
36. It is the Petitioner's submission that Section 49 (a) of the *Employment Act* 2007 provides for reinstatement if the termination or summary dismissal is found to be unfair. Additionally, Section 12 (3) (vii) of the *Employment and Labour Relations Court Act* provides that an order for reinstatement is only available in exceptional and practicable circumstances and within 3 years of the separation. It is therefore a discretionary remedy and which the Court ought to consider various factors before granting the same.



37. The Petitioner submitted that he has worked with the Interested Party since 2010 and prior to his irregular and unlawful indefinite suspension by the 1<sup>st</sup> Respondent he was serving his second and final term as CEO set to expire on 30.09.2024. He has had an impeccable performance record leading to his rise from operations manager to CEO. Further, the Petitioner has never had any disciplinary issues and there is no ongoing investigation as the request by EACC is a matter of procedure to get documents from the Interested Party when WEF sought help from EACC to execute court decrees for recovery matters that the Fund had pursued in court and won.
38. It is the Petitioner's submission that there is good cause for reinstatement and relied on the case of Kenya Power & Lightning Company Limited VS Aggrey Lukorito Wasike (2017) eKLR.
39. The Petitioner submitted that there is no basis and justification for withholding his pay while on indefinite suspension. It is a total contravention of the [Employment Act](#), 2007 which provides for the minimum terms and conditions of service and Article 41 of [the Constitution](#) of Kenya 2020 on fair labour practices.
40. The Petitioner submitted that this Court has powers to award general damages where it deems fit and just to grant. This position was reiterated in the case of James Musembi Mweu VS Buzeki Enterprises Limited (2014) eKLR.

### **Respondents' Submissions**

41. It is the Respondents' submission that the legal standard for suspension of employment is that the employer has to show they had a good reason for termination and that they followed the laid down procedure. The conduct of the parties is a key consideration when the Court is deciding whether a suspension is fair or unfair. They relied on *Waruinge v Chuna Cooperative & Credit Society ELRC Cause 184 of 2019*.
42. The Respondents submitted that the Petitioner has not adduced any evidence to prove his assertions of sacking, interdiction or suspension and relied on *Kipkepe Limited v Peterson Ondieki Tai (2016) eKLR*. The Petitioner failed to satiate the burden of proof of unlawful termination of employment as provided under section 47 (5) of the [Employment Act](#), 2007.
43. It is the Respondents' submission that the doctrine of constitutional avoidance deals with instances where a Constitutional Court will decline to deal with a matter because there exists another remedy provided in law which the aggrieved party is yet to utilize, also referred to as the doctrine of exhaustion. They relied on *Mombasa High Court Constitutional Petition No. 159 of 2018 consolidated with Constitutional Petition No. 201 of 2019 (2020) eKLR*.
44. The Respondents submitted that the Petitioner has been accorded fair administrative action as outlined in [the Constitution](#). Despite being cited for negligence of duty by the Head of Public service through the Office of the Principal Secretary, the Petitioner is on half of the basic salary, full house allowance and medical insurance cover as per section 4(2) of the Public Service Commission Discipline Manual, 2022. Further, the Petitioner has failed to disclose any constitutional violations on the part of the Respondents.

### **Interested Party's Submissions**

45. It is the Interested Party's submission that the Petitioner's suspension was legal and, lawful and procedural as it has proved its reasons which was to protect further loss of WEF funds which is a public institution. Further, the Petitioner fell short of section 47(5) of the [Employment Act](#).



46. The Interested Party submitted that the Petitioner’s invitation for the court to intervene and reinstate him to work would mean that the Court shall scuttle the ongoing investigation by EACC which is mandated to deal with issues of investigations on matters integrity. The Petitioner ought to wait for the outcome which will vindicate him from all allegations levelled against him on embezzlement of funds.
47. The Interested Party submitted that the Petitioner’s term of service lapses on 30.09.2024 thus if vindicated there is a definite period of his remaining period of service which can be compensated.

### **Analysis and Determination**

48. The main issue for determination is whether the Petitioner’s indefinite suspension is illegal and unlawful.
49. The Petitioner submitted that his indefinite suspension of vide a letter dated 10.08.2023 issued by the 1<sup>st</sup> Respondent is not only illegal, unlawful and in total contravention of Articles 10, 19 (2), 20 (2), 21 (1), 22, 23, 27, 41, 47, 50 (1), 159, 162 and 258 of the Constitution, the same also amounts to constructive termination of the Petitioner’s employment.
50. The Petitioner further submitted that his suspension was to pave way for investigations into allegations levelled against him. However, the Petitioner having been on leave for two months prior to the suspension, the Respondents failed to carry out all manner of investigations.
51. The Respondents and Interested Party submitted that the Petitioner’s suspension was legal and, lawful and procedural as it has proved its reasons which was to protect further loss of WEF funds which is a public institution. Further, the Petitioner fell short of proving provision of section 47(5) of the Employment Act.
52. The Respondents and Interested Party aver they have satisfied this court that the 1<sup>st</sup> Respondent complied by virtue of section 51(1) Interpretation and General Provisions Act read together with Regulation 25 of the Leadership and Integrity Regulations, 2015.

Section 51 of the Interpretation and General Provisions Act

- “(1) Where by or under a written law, a power or duty is conferred or imposed upon a person to make an appointment or to constitute or establish a board, commission, committee or similar body, then, unless a contrary intention appears, the person having that power or duty shall also have the power to remove, suspend, dismiss or revoke the appointment of, and to reappoint or reinstate, a person appointed in the exercise of the power or duty, or to revoke the appointment, constitution or establishment of, or dissolve, a board, commission, committee or similar body appointed constituted or established, in exercise of the power or duty, and to reappoint, reconstitute or re-establish it.
- (2) Where the power or duty of a person under this section is exercisable only upon the recommendation, or is subject to the approval or consent of another person, then the power shall, unless a contrary intention appears to be exercisable only upon that recommendation or subject to that approval or consent.”



Regulation 25 of the Leadership and Integrity Regulations, 2015 states:

- “(1) Subject to paragraph (2), an officer who is under investigations may
  - (a) if the public entity conducting the investigation is the officer's employer, be suspended by that public entity; or
  - (b) if employed by a public entity other than the one conducting the investigation be suspended on the recommendation of that public entity; or
  - (c) if the Commission conducts the investigation, be suspended on the recommendation of the Commission.
- (2) The provisions of paragraph (1) shall apply where the officer is likely to
  - (a) conceal, alter, destroy, remove records, documents or evidence;
  - (b) intimidate threaten or otherwise interfere with witnesses;
  - (c) interfere with investigations in any other manner.
- (3) An officer under suspension shall be on half pay pending investigations and determination of the allegations made against the officer.”

53. In view of the foregoing, the Respondents acted within their mandate when deciding to suspend the Petitioner. Therefore, it begs the question whether the suspension was unlawful.

54. In *Bryan Mandila Khaemba v Chief Justice and President of the Supreme Court of Kenya & another* [2019] eKLR, the court held:

“Fourth, the Court returns that as submitted for the petitioner, the petitioner was suspended indefinitely and in view of the absence of implementation of the cited safeguards in the entire process, the petitioner was entitled to lament that he had been constructively terminated. The Court follows the holding by Ndolo J in *Joseph Ndungu –Versus-Mastermind Tobacco (K) Ltd* [2014]eKLR, thus “An employee cannot be kept on suspension indefinitely and I agree with the Claimant that his continued suspension amounts to constructive dismissal amounting to unfair termination of employment.”

55. Further, in *Maureen Cherono Nyigei v Chief Justice and President of the Supreme Court of Kenya & another* [2021] eKLR the court held:

“This Court, as a general rule, has no mandate to interfere with the employers’ disciplinary role and endeavours not to usurp an employers’ function save where there is justification or



for reason of procedural impropriety. This position was aptly stated by Ndolo J in *Rebecca Ann Maina & 2 others v Jomo Kenyatta University of Agriculture and Technology* [2014] eKLR that:

“However, in cases where an employee facing disciplinary action legitimately feels that the process is marred with irregularities or is stage managed towards their dismissal, the Court will intervene not to stop the process altogether but to put things right.”

56. The Respondents and Interested Party did not adduce any evidence before this court to show that before the Petitioner’s suspension, he was informed of the allegations raised against him and accorded an opportunity to defend himself.
57. The suspension letter dated 10.08.2023 only that the Petitioner had been suspended as EACC had initiated an investigation on the possible embezzlement of funds at WEF. No other allegation was listed in the letter as the basis of the suspension.
58. Further to the above, the letter did not state the period of suspension and only stated that the Petitioner will be informed of the outcome of the investigation and the next course of action.
59. Section 24 of leadership and integrity regulations 2015 provides “ where public entity or the commission initiated investigations into breach of code in accordance with regulation 23(1) the investigations shall be conducted in accordance with the provisions of *the constitution*, the act and any other relevant law. In this case *Employment Act* 2007 section 45(1) provides as follows:  

“No employer shall terminate the employment of an employee unfairly.”

The respondent in the suspension letter did not specify the reason for suspension to enable the petitioner to prepare his defence. *The Constitution* of Kenya 2010 article 41 provide that every person has a right to fair labour practice.
60. So the court holds that to suspend an employee without any sound reason and for an indefinite period cannot be fair labour practice.
61. As held in *Joseph Ndungu vs Mastermind Tobacco (K) Ltd* [supra] the Petitioner’s continued suspension amounts to constructive dismissal amounting to unfair termination of employment. Accordingly, the Respondents action are in contravention of the Petitioner’s legal and constitutional rights.
62. The second issue for determination is whether the Petitioner is entitled to reinstatement. In *Kenya Revenue Authority v James Omondi Were* [2020] eKLR the court held:

“On the second issue, Section 12 (3) (vii) of the *Employment and Labour Relations Court Act* which donates to the ELRC mandate to order reinstatement of a dismissed employee, provides inter alia that:

“In exercise of its jurisdiction under this Act, the Court shall have power to make any of the following orders—

.....

- vi. an award of damages in any circumstances contemplated under this Act or any written law;
- vii. an order for reinstatement of any employee within three years of dismissal, subject to such conditions as the Court thinks fit to



impose under circumstances contemplated under any written law;

or

viii. any other appropriate relief as the Court may deem fit to grant.

(4) ...”

63. The court continued In light of the above provision, it is not disputed that the Respondent received the letter of retirement on 12<sup>th</sup> October 2015, while the judgment of the Court was delivered on 31st July 2018. It is therefore our finding that it was correctly computed and found by the trial court that from 12th October, 2015 to 31st July, 2018 a period of three years had not lapsed, bringing the Respondent’s reinstatement within the ambit of the above provision, save that the trial court and now this Court on appeal was and is obligated to bear in mind the factors that justify reinstatement of an employee back to his employment.” These were restated by the Court in the case of National Bank of Kenya vs. Samuel Nguru Mutonya [2019] eKLR and National Bank of Kenya Limited vs Anthony Njue John [2019] Eklr where the court held as follows:

“Remedy for reinstatement is provided for under Section 49(3) (a) of the Act. Factors to be considered by a court of law when considering reinstatement as an appropriate remedy for an aggrieved employee are as set out in Section 49(4) (a) to (m).”

In the same cases of National Bank of Kenya vs Samuel Mutonya (supra) and National Bank of Kenya vs Anthony Njue John (supra); it was observed and which we fully adopt that:

“The remedy of reinstatement is not an automatic right for an employee. It is discretionary as each case depends on its own set of facts and circumstances.”

The position taken by the Court in the above cases of National Bank of Kenya vs Samuel Mutonya (supra), and National Bank of Kenya vs Anthony Njue John (supra), had earlier been crystalized by the Court in the case of Kenya Airways Limited vs Aviation & Allied Workers Union Kenya & 3 others [2014] eKLR, when the Court explicitly stated inter alia that:

“the remedy of reinstatement should not be given except in very exceptional circumstances.”

The relief is therefore discretionary. The position we take, in line with the decision of this Court in the case of Coffee Board of Kenya Vs. Thika Coffee Mills Limited & 2 Others [2014] eKLR, is that the court ought not to interfere with the exercise of such discretion unless it is satisfied that the judge misdirected himself in some matter and as a result arrived at a wrong decision, or that it be manifest from the case as a whole that the judge was clearly wrong in the exercise of discretion and therefore occasioned injustice.

64. “The trial Judge considered and applied the threshold in the case of Kenya Power & Lighting Company Limited Vs Aggrey Lukorito Wasike [2017] eKLR, and ruled correctly, in our view, that reinstatement cannot be made except in very exceptional circumstances and after the court has seriously considered prerequisites provided for in Section 49 (4) (a) to (m) of the Act, which in our view is in line with the threshold set in the case of Kenya Airways Limited vs Aviation & Allied Workers Union Kenya & 3 Others (supra).”



65. The court is also persuaded by the case of Mary Chemweno Kiptui vs Kenya Pipeline Company Limited (2014) eKLR where court held:

“ the claimant has served the respondent since 1995 faithfully. The court has taken cognizant that the claimant long service has been diligent.”

The court held the claimant had legitimate expectation that she would be reinstated to her position in employment.

66. In the instant case the petitioner was working for the interested party in the second and the last term and he was to retire on 30<sup>th</sup> September 2024. He was suspended on 10<sup>th</sup> August 2023.

67. In conclusion, the court holds the petitioner was suspended unfairly and without a valid reason. His legal and constitutional rights were therefore violated. In that case the court holds the petitioner’s application and petition dated 1<sup>st</sup> November 2023 are merited and are granted with costs to the petitioner of both the application and of the petition.

68.

(a) In particular the court orders the petitioner to be reinstated to his position of a chief executive officer of the interested party to the end of his term with no loss to his salaries and benefits whatever.

(b) The respondents and interested parties are ordered to pay the petitioner his withheld salaries and benefits and to continue paying the applicant his full salary and benefits until the end of his term.

69. The petitioner has lost a lot during the term of his suspension including humiliation and loss of dignity. The court will award him nominal damages of 3 months equivalent of his salary. It is 241,020x3=723,060/-.

70. Petitioner is awarded costs.

Orders accordingly.

**DATED, SIGNED AND DELIVERED VIRTUALLY IN NAIROBI THIS 13<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**

