



Koech & 2 others v Mutai , Governor Kericho County & another; County Assembly of Kericho (Interested Party) (Employment and Labour Relations Petition E008 of 2023) [2024] KEELRC 853 (KLR) (4 April 2024) (Ruling)

Neutral citation: [2024] KEELRC 853 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KERICHO
EMPLOYMENT AND LABOUR RELATIONS PETITION E008 OF 2023**

DN NDERITU, J

APRIL 4, 2024

BETWEEN

ERICK KIPNGTICH KOECH PETITIONER

AND

LAWRENCE BII 1ST APPLICANT

DANIEL K ROP 2ND APPLICANT

AND

DR ERICK K MUTAI , GOVERNOR KERICHO COUNTY ... 1ST RESPONDENT

COUNTY GOVERNMENT OF KERICHO 2ND RESPONDENT

AND

THE COUNTY ASSEMBLY OF KERICHO INTERESTED PARTY

RULING

I. Introduction

1. In a petition dated 1st November, 2023 filed in court on 16th November, 2023 through C & K Advocates LLP, the petitioners are seeking the following reliefs –
 - a. A declaration that the termination of the Petitioners’ from employment as County Executive Committee Members of the County Government of Kericho in the Department of Public Service Management, Trade, Industrialization, Co-operative Management, Tourism and Wildlife, Information, Communication, E-Government, Youth Affairs, Gender and Sports respectively on 6th November 2023, was irregular, unlawful, unfair, wrongful, capricious, unreasonable in law, unconstitutional, and void ab-initio.



- b. AN ORDER of mandamus commanding the 1st and 2nd Respondents to reinstate the Petitioners to their office as Kericho County Executive Committee Members with all the benefits appurtenant thereto pursuant to the Petitioners' employment contracts dated 4th November, 2022, 28th March, 2023 and 4th November, 2022 respectively.
- c. A Declaration that the act of the 1st Respondent in terminating the Petitioners from employment is in breach of their constitutional rights under Articles 10, 27, 28, 35, 41(1), 47(1), 50(1), 73, 232 and 259 of *the Constitution* and also in breach of Sections 32(a) and 40(2) of the *County Governments Act*, Section 4 of the Fair Administrative Actions Act and Sections 41, 43, and 45 of the *Employment Act* thus the said action is null and void.

In the Alternative and without prejudice to prayers(i) to (ii) above:-

- d. An Order that each Petitioner is entitled to payment by the Respondents of all salaries, benefits and alludes that the Petitioners would have earned for the remainder of their contract term from 6th November, 2023 to 10th September, 2027 tabulated as hereunder:-
 - a. 6th November, 2023 – 6th November 2026 – 36 months x Kshs.404,250 = Kshs.14,553,000/=
 - b. 6th December, 2026 – 10th September, 2027 – 10 months x Kshs.404,250 = Kshs.4,042,500/=
 - c. Payment in lieu of annual leave for 4 years to 10th September, 2027 = Kshs.1,617,000/=
 - d. Add gratuity at 31% at Kshs.18,595,000/= = Kshs.5,764,605.
Grand Total – Kshs.25,976,605/=

Less applicable taxes.
- e. Compensation and/or damages for violation of the Petitioner's constitutional rights and for their unfair termination.
- f. Interest on (iv) above at court rates from 6th November, 2023 till payment in full.
- g. AN ORDER awarding costs of the Petition and interest thereon to the Petitioners at court rates.
- h. This Honourable Court be pleased to issue such further orders, writs and directions that this court may consider appropriate in the circumstances.

2. Contemporaneously, the petitioners filed a notice of motion of even date (the application) under certificate of urgency, the subject matter of this ruling, seeking the following orders –

- 1. Spent
- 2. THAT pending the inter-partes hearing and determination of this application, this Honourable Court be pleased to issue a conservatory order staying the decision of the 1st Respondent communicated vide the letters dated 6th November 2023, unlawfully terminating the Petitioners/Applicants herein as County Executive Committee Members (CECM) in the Department of Public Service Management Trade, Industrialization, Co-operative Management, Tourism and Wildlife Information, Communication, E-Government, Youth Affairs, Gender and Sports respectively.



3. THAT pending the hearing and determination of the petition, this Honourable Court be pleased to issue a conservatory order staying the decision of the 1st Respondent communicated vide the letters dated 6th November, 2023 unlawfully terminating the Petitioners/Applicants herein as County Executive Committee Members (CECM) in the Department of Public Service Management Trade, Industrialization, Co-operative Management, Tourism and Wildlife Information, Communication, E-Government, Youth Affairs, Gender and Sports respectively.
 4. THAT pending the inter-partes hearing and determination of this application, this honourable court be pleased to issue a conservatory order restraining the Interested Party from vetting the nominees listed by the 1st Respondent namely;- Malel John Kiplangat – Department of Information, Communication E-Government, Youth Affairs, Gender and Sports and Jackson Rop Kipkorir – Department of Trade, Industrialization, Co-operative management, Tourism and Wildlife to fill the position of the Petitioners in their respective departments.
 5. THAT pending the hearing and determination of the petition, this honourable court be pleased to issue conservatory order restraining the Interested Party from vetting the nominees listed by the 1st Respondent namely;- Malel John Kipruto – Department of Public Service Management, Kemoi Ronald Kiplangat – Department of Information, Communication, E-Government, Youth Affairs, Gender and Sports and Jackson Rop Kipkorir-Department of Trade, Industrialization, Co-operative Management, Tourism and Wildlife to fill the position of the Petitioners in their respective departments.
 6. THAT this honourable court be pleased to issue any other orders and/or directions that the court may deem fit to grant.
 7. THAT the costs of this Application be in the cause.
3. The application is expressed to be brought under the provisions of Articles 1, 2, 10, 27, 28, 35, 41(1), 47(1), 50(1), 73, 232, and 236 of *the Constitution* of Kenya, Sections 3 and 4 of the Fair Administrative Actions Act, Sections 30 and 40 of the *County Governments Act*, Sections 41, 43, and 45 of the *Employment Act*, and all other enabling provisions of the law.
 4. The application is supported with three affidavits, one by each of the petitioners, with several annexures to each affidavit.
 5. On 20th November, 2023 the 1st and 2nd respondents appointed SMS Advocates LLP to act for them while the interested party appointed Cheruiyot Melly & Associates Advocates.
 6. In response to the application the 1st and 2nd respondents filed a joint replying affidavit sworn by Dr. Wesley Bor, the County Secretary of the 2nd respondent, sworn on 23rd November, 2023 with several annexures thereto.
 7. On its part, the interested party responded to the application by way of a replying affidavit sworn by Martin Epus, the Clerk thereof, sworn on 11th December, 2023.
 8. In reply to the foregoing, each petitioner filed a further affidavit all sworn on 7th December, 2023, with several annexures thereto.
 9. On 21st November, 2023 the court issued interim orders in terms of prayers 4 and 5 of the application pending the hearing and determination of the same. Further, with concurrence of counsel for all the parties, the court directed that the application be canvassed by way of written submissions.



10. Counsel for the petitioners filed written submissions on 7th December, 2023, counsel for the 1st and 2nd respondents filed on 15th December, 2023, and counsel for the interested party filed on 18th December, 2023.

II. Background

11. In summary, the petitioners' case as contained in the petition and the supporting affidavits is that the 1st petitioner was appointed county executive committee member of the department of public works, roads, and transport on a periodic contract that was to run from 2nd November, 2022 to 10th September, 2027. The 2nd petitioner was appointed county executive committee member of the department of trade, industrialization, cooperative management, tourism and wildlife on a contract that was to run from 28th March, 2023 to 10th September, 2027. The 3rd petitioner was appointed county executive committee member of the department of agriculture, livestock, and fisheries on a contract running from 2nd November, 2022 to 10th September, 2027.
12. Of course, the above appointments were made by the 1st respondent as the governor of the 2nd respondent with the approval of the interested party. During the period of the respective contracts the petitioners also served in other departments as and when lawfully moved by the 1st respondent.
13. On 6th November, 2023 all the petitioners were served with notice of termination of their respective contracts issued by the 1st respondent, dated 6th November, 2023, which in the material part read as follows –

Re: Notice Of Termination Of Contract As County Executive Committee Member

You are hereby given a notice of termination of contract as CEC, Trade, Industrialization, Co-operative Management, Tourism and Wildlife as from 6th November, 2023.

The termination of contract is in accordance with the County Government Act of 2012 Section 31(a) read with Section 40(1), which provides that the Governor may dismiss a member of the County Executive Committee from office, if the Governor considers it appropriate or necessary to do so. However, it has been noted that you have failed to discharge duties as directed and assigned as per executive order 1 of 22 and number 1 of 2023.

You are hereby served with one-month notice of termination of your employment contract with effect from 6th November, 2023, you shall be paid up to and including 5th December, 2023 and paid service gratuity of 31% of your salary for the period worked subject to handing over the clearance of any County Government property in your possession.

I take this opportunity to wish you well in your future endeavors.

Yours sincerely,

H.E Dr. Erick K. Mutai (PhD)

Governor

14. In their respective affidavits in support of the petition and the application, the petitioners opine that the above notice is unlawful for several reasons. Firstly, they state that the same was issued against the rules of natural justice and in contravention of the constitutional and statutory provisions upon which the application is expressed to be brought as cited above. They also advance that they were not given a hearing before the termination. Secondly, they state that the termination was malicious and lacking in substance and procedure (due process). Thirdly, it is stated that the termination was based and founded



on provisions of the law that had been repealed and as such the termination notices were of no legal consequences, null and void ab initio.

15. The petitioners reiterated the foregoing position in the further affidavit in response to the replying affidavits by the respondents and the interested party.
16. In their joint replying affidavit, the respondents state that although the notices erroneously cited repealed law, Section 40(1) of the [County Governments Act](#), the petitioners were lawfully terminated by the 1st respondent as the appointing authority. It is alleged that the petitioners were terminated for poor performance and lack of professionalism and misconduct in the execution of their duties.
17. On the part of the interested party, it is stated that the names of the nominees proposed to fill-in the positions vacated by the petitioners have been submitted to it by the 1st respondent for vetting and that it is in the public interest that the recommended persons be vetted for unhindered service delivery to the citizens of the County of Kericho (the County).

III. Submissions By Counsel

18. On the one hand, counsel for the petitioners submits that the petitioners are seeking conservatory orders pending the hearing and determination of the petition. It is submitted that the petitioners are depending on the provisions of Article 23 of [the Constitution](#) in that regard. Counsel has cited Board of Management of Uhuru Secondary School V City County Director of Education & 2 Others (2015) eKLR in laying the principles upon which a conservatory order may be issued which are stated as –
 - i. The need for the applicant to demonstrate an arguable prima facie case with a likelihood of success, and to show that in the absence of the conservatory orders, he is likely to suffer prejudice.
 - (ii) Whether the grant or denial of the conservatory relief will enhance the constitutional values and objects of a specific right or freedom in the Bill of Rights.
 - (iii) Whether if an interim conservatory order is not granted, the petition or its substratum will be rendered nugatory.
 - (iv) Whether the public interest will be served or prejudiced by a decision to exercise discretion to grant or deny a conservatory order.
19. Basing his argument on the decisions in *Mrao V First American Bank of Kenya Limited & 2 Others* (2003) eKLR and *Isaiah Luyara Odando & Another V Kenya Revenue Authority & 6 Others* (2022) eKLR it is submitted that clearly and evidently the petitioners were denied due process in their termination or dismissal and the same was wrong and unfair both in substance and procedure. It is submitted that the notices of termination dated 6th November, 2023 violated Articles 41, 47, and 50 of [the Constitution](#), Section 41 of the [Employment Act](#), and Sections 4 and 5 of the Fair Administrative Actions Act.
20. Further, it is submitted that Section 41(1) of the [County Governments Act](#) that the 1st respondent cited in the notices of termination was repealed and not applicable and that the 1st respondent no longer has sole discretion or powers to fire the petitioners as he purported to do in the impugned notices. It is submitted that the 1st respondent acted ultra vires and that his actions were wrongful, unfair, unlawful, and unconstitutional. It is submitted that the 1st respondent violated the rights of the petitioners as enshrined in all the constitutional articles cited in the application.



21. The court is urged not to sit back and watch in view of the alleged clear breach and violation of the constitutional provisions and rights of the petitioners by the 1st respondent.
22. In regard to the second principle of whether if the conservatory orders are denied the substratum of the petition shall be rendered nugatory, counsel has cited *Muslims for Human Rights (MUHURI) & 2 Others V Attorney General & 2 Others (2011) eKLR* in urging that if conservatory orders are not granted the petitioners shall suffer constitutional violations that may not be compensated by way of damages. The court is urged to issue conservatory orders to maintain the status quo.
23. On the issue of public interest, it is submitted that the public interest is envisioned in the text and spirit of *the constitution*. It is argued that the respect for individual rights, principles of governance, and the rule of law embody public good and interest. In this regard counsel has cited *Ruth Wambui Ndirangu & 2 Others V Clerk – County Assembly of Embu & 3 Others (2021) eKLR* wherein the decision of the Supreme Court of Kenya in *Gatirau Peter Munya V Dickson Mwenda Githinji & 2 Others* was cited and applied.
24. Further, it is submitted that the citizens of the 2nd respondent shall not be prejudiced if the conservatory orders are granted as vacancies in the positions previously held by the petitioners are policy level and the technocrats in the concerned departments should be able and are capable to proceeding with the delivery of public goods and services agenda based on policies and guidelines already in place.
25. In conclusion, it is submitted that in view of the clear constitutional and statutory violations by the 1st respondent, the court is urged to issue conservatory orders in the terms sought for in the application.
26. On the other hand, counsel for the respondents isolated one major issue for determination in this application – Whether the petitioners’/applicants’ termination was unlawful and whether the orders sought in the application should be granted.
27. It is submitted that the termination of the petitioners’ contracts was in accordance with the law based on a provision in the contracts that the same may be terminated by either party given the other 30 days’ notice. It is submitted that the notice of termination is clear on the reasons for termination and that the respondents have availed minutes of the meetings whereby the decision to terminate the petitioners was arrived at.
28. It is submitted that while the notices of termination erroneously referred to Section 40(1) of the *County Governments Act*, the error was typographical but the reasons for the termination were valid in law. It is submitted that the correct reference ought to have been Section 40(2) of the said Act and that the obvious error in reference did not in any way prejudice the petitioners as the reasons and the process of termination was allegedly lawful.
29. It is submitted that as the appointing authority the 1st respondent retained residual powers and authority to terminate members of his cabinet and the petitioners were such members. It is thus submitted that the pleasure doctrine still applies under Section 31(a) of the *County Governments Act*. In that regard counsel has cited *County Government of Garissa & Another V Idriss Aden Mukhtar & 2 Others (2020) eKLR* and *County Government of Narok & Another V Richard Bwogo Birir & Another (2015) eKLR*.
30. It is submitted that the petitioners did not respond to the notices of termination and as such they allegedly failed to show-cause why the termination should not take effect and indeed it took effect as per the notices.



31. Counsel has invoked *Geilla V Cassman Brown (1973) E.A 358* in urging the court to deny the petitioners the conservatory orders as no damage is demonstrated to be likely to be suffered by the petitioners that may not be compensated by way of award of damages. It is submitted that the balance of convenience tilts strongly in favour of denial of the conservatory orders as granting of the same shall deny the citizens of the County efficient and effective delivery of services due to the vacancies left by the termination of the petitioners.
32. Counsel for the interested party has submitted that the issue for the court to decide is - Whether the application meets the threshold for issuance of conservatory orders sought. It is submitted that the application does not meet the principles upon which such conservatory orders may be granted. Counsel has cited the Supreme Court of Kenya in *Gatirau Peter Munya (supra)* and *Wilson Kaberia Nkunja V The Magistrates and Judges Vetting Board & Others (2016) eKLR* urging that the petitioners have not demonstrated a prima facie case, a likelihood that if the conservatory orders are denied the petition shall be rendered nugatory, and that public interest favours the granting of the orders sought.
33. It is submitted that the vetting of the nominees to replace the petitioners has not commenced as provided for under the Public Appointments (County Assembly Approval) Act and as such the application by the petitioners is merely speculative. Further, it is submitted that in any event the orders sought in the application as against the interested party are not prayers in the petition. It is therefore submitted that the petitioners have not demonstrated or established prima facie case against the respondents or the interested party.
34. In regard of whether the petition shall be rendered nugatory if the conservatory orders are denied, counsel has cited *Nguruman Limited V Jan Bonde Nielsen & 2 Others (2014) eKLR* to the effect that conservatory orders are essentially injunctive orders and as such, where an alleged damage may be compensated by way of damages, the loss or injury cannot be said to be irreparable. It is submitted that if the petitioners were to suffer any loss or damage, the same can easily be quantified in monetary terms based on the contract of employment. In that regard it is submitted that the denial of the conservatory orders shall not render the petition nugatory.
35. It is submitted that the subject matter hereof revolves around public offices that ought to serve the public for public good. It is urged that the interested party should not be hindered in performing its duty of vetting the nominees to take the positions vacated by the petitioners. The court is urged to find that the balance of convenience tilts in favour of not granting the conservatory orders.
36. The respondents and the interested party urge the court to dismiss the application with costs.

IV. Analysis And Determination

37. The court has carefully and dutifully gone through the petition, the application, the affidavits for and against the application, and the submissions by counsel for all the parties. In my understanding, the petitioners are firstly seeking stay of the decision of the 1st respondent as communicated in the notice dated 6th November, 2023, which has been reproduced verbatim in another part of this ruling, pending the hearing and determination of the petition. Secondly, the court is urged to bar the respondents and the interested party from filling the positions formerly occupied by the petitioners pending the hearing and determination of the petition.
38. As alluded to elsewhere in this ruling, interim conservatory orders were issued on 13th December, 2023 pending the hearing and determination of the application.



39. Upfront, it is the undisputed evidence on record that the notices dated 6th November, 2023, issued by the 1st respondent, terminating the contracts for the petitioners took effect on 5th December, 2023. As to whether the notices were lawful or unlawful is a major issue for determination in this petition. A point of great importance and significance is that the petitioners are no longer employees of the 2nd respondent in the capacities alluded to in an earlier part of this ruling.
40. The second aspect that is equally of great importance and significance is that the 1st respondent, in a communication dated 6th November, 2023, nominated three persons to replace the petitioners. It is a fact that the names of the said nominees have neither been submitted to the interested party nor vetted to take over the vacancies created.
41. In view of the foregoing, and in view of the interim conservatory orders issued by the court on 13th December, 2023, the petitioners are no longer county executive committee members (CEC) or cabinet members of the 2nd respondent headed by the 1st respondent. That is the status quo as the court writes this ruling.
42. The implication of the foregoing is that if the court issues an order staying, reversing, nullifying, or quashing the notice by the 1st respondent dated 6th November, 2023, even if in the interim pending the hearing and determination of the petition, the court shall have reinstated the petitioners to the positions that they formerly occupied.
43. It is not in dispute that the CECs in any county government are appointees of the governor appointed on his nomination and recommendation and approval upon vetting by a county assembly. To that extent it is correct and legally logical to state that CECs serve at the pleasure of a governor. Likewise, the governor may at his discretion recommend to the county assembly for the removal of CECs. A county assembly in this regard serves as a check and balance on a governor's right to hire and fire CECs in the context of the pleasure doctrine.
44. I have deliberately set out the above scenario and background with the hope of clearing the path as to what is in contest in this application and the petition herein. As the court rules on the application, it is important to avoid prejudging the petition. In the opinion of this court the following issues commend themselves to this court for determination –
- a. Is the petition and the application properly before the court? Put in another fashion, is the court possessed of the jurisdiction to hear and determine the application and the petition?
 - b. Does the application meet the threshold for issuance of conservatory orders as sought?
 - c. What are the appropriate orders to issue?
 - d. Who meets the costs of the application?
45. Neither of the parties has raised the issue of the jurisdiction of this court to hear and determine the application and by extension to hear and determine the petition. The court also notes that the respondents and the interested party have not responded to the petition besides their responses to the application as discussed in a preceding part of this ruling. However, from the responses to the application the court can easily discern the positions that the respondents and the interested party are likely to take in response to the petition.
46. However, when the time comes the court shall wish to have this issue heard and determined. Is the subject matter of the petition a political question or a legal one? Is the dispute herein justiciable? The court is not at this point suggesting that it has no jurisdiction over the subject matter but down the road the parties need to address those concerns vis a vis the contract of employment issued to the petitioners



and the implication thereof vis a vis the pleasure doctrine as viewed from the provisions of Section 40 of the [County Governments Act](#). For now, I will leave the issue at that to avoid prejudging the same at this point.

47. On the second issue, conservatory orders are essentially injunctive orders in the realm of public law. Conservatory orders are intended to secure proper conduct of public affairs and governance and to alleviate suffering of an individual or the public from the actions of a public body or officer – See Gatirau Peter Munya (Supra).
48. From the numerous authorities cited by counsel for all the parties herein, and the court thanks them for a job well done, for the court to issue the conservatory orders sought it has to satisfy itself that –
 - a. The applicants have demonstrated a prima facie arguable case.
 - b. The applicants’ case shall be prejudiced and their prima facie case rendered nugatory if the orders sought are not granted.
 - c. It is in public interest that the conservatory orders sought be granted.
49. In the opinion of the court, the petitioners have submitted a strong case for unlawful dismissal/termination alleging lack of both substantive and procedural fairness. As stated above, the respondents and the interested party have not filed their responses/defence to the petition but the court is able to discern the direction they will take from the already filed affidavits and submissions in response to the application.
50. The issues raised by the petitioners, alleging violation and abuse of their various constitutional and statutory rights are not matters that may be taken lightly. They are weighty issues that shall hopefully be properly and deeply canvassed in the hearing of the petition.
51. In the circumstances, the court finds and holds that the petitioners have established and demonstrated that they have prima facie case that is arguable and deserving of serious consideration by the court.
52. The second issue for consideration is whether the prima facie case so established and demonstrated by the applicants shall be rendered nugatory if the conservatory orders are denied. The ultimate orders and reliefs sought by the applicants are set out in the petition. In the prayers set out at the introductory part of this ruling, the petitioners are in the alternative seeking, and rightly so, for compensation for unfair and unlawful dismissal or termination. To that extent, it is clear that what the petitioners, so to say, may have lost due to the termination or dismissal that they consider wrongful, unfair, and unlawful, is quantifiable in monetary terms. Even the pleaded breach or violation of their statutory and or constitutional rights can be compensated in award of monetary damages. Courts have awarded such compensation in damages over and over again.
53. In my view, the petition would be rendered nugatory if the hearing of the same was reduced to a mere academic exercise with a twist of futility in terms of compensation or award of reliefs. This means that even if the conservatory orders sought are denied at this juncture the petition shall not in any way be rendered nugatory or reduced to a mere academic exercise as the petitioners shall still be eligible, upon succeeding in prosecuting the petition, for suitable, equitable, adequate, and appropriate reliefs.
54. The third factor for consideration is that of public interest. This is a very broad angle that should incorporate public interest, public good, and public policy vis a vis the rights of an individual(s). The effect and implication of the court granting the conservatory orders pending the hearing and determination of the petition is two pronged. One, if it granted the conservatory orders the court would be reinstating the petitioners to work with the 1st respondent who has clearly lost faith in them



and made up his mind to dismiss or terminate them as expressed in his notice dated 6th November, 2023. In my view that would amount to this court forcing a marriage between unwilling partners. Certainly, that shall create a very hostile and or toxic environment that will affect the governance and delivery of services to the citizens of the County and affect the operations and functioning of the 2nd respondent. It shall amount to reinstatement which is actually an order of specific performance in contracts of personal service – See Geilla V Cassman Brown (Supra).

55. Two, the petitioners have been out service for about five months and their return to the office shall for sure affect the flow and delivery of services to the public. The ground upon which the petitioners served must have shifted by now.
56. The converse of the foregoing scenario is that the citizens of the 2nd respondent are watching and concerned with the stability of their government headed by the 1st respondent for the proper and efficient delivery of services.
57. In my considered view, and I so hold, it is in the public interest that the conservatory orders be denied at this juncture for the following reasons. The petitioners can be fairly and adequately compensated by way of the alternative remedies and reliefs as sought in the petition. For the sake of stability and delivery of public goods and services it shall be ill advised for the court to order the reinstatement of the petitioners who have clearly and evidently fallen out with their appointing authority.
58. The request by the petitioners that the vetting of the nominees be stopped was based on the presumption that the court may order their reinstatement. The court has politely declined to grant an order of reinstatement for the reasons so elaborately discussed in the foregoing paragraphs of this ruling. In the circumstances, it shall be counter-productive for the court to bar the interested party from vetting the nominees of the 1st respondent to take up the vacancies. It is in the public interest that the said vacancies be filled for delivery of public goods and services to the citizens of the County.
59. In more straight-forward language, as applied in applications for injunctions, the balance of convenience (public interest) tilts in favour of the court not granting the conservatory orders.
60. On costs of the application, each party shall meet own costs.

V. Orders

61. For all the foregoing reasons the notice motion by the petitioners dated 15th November, 2023 is hereby denied with each party ordered to meet own costs.

DELIVERED VIRTUALLY, DATED, AND SIGNED AT NAKURU THIS 5TH DAY OF APRIL, 2024.

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DAVID NDERITU

JUDGE

