



**Universities Academic Staff Union Egerton Chapter/Branch v Egerton University & 2 others; Board of Trustees, Egerton University Retirement Benefits Scheme & 2 others (Interested Parties) (Cause E020 of 2023) [2023] KEELRC 2927 (KLR) (16 November 2023) (Ruling)**

Neutral citation: [2023] KEELRC 2927 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAKURU  
CAUSE E020 OF 2023  
DN NDERITU, J  
NOVEMBER 16, 2023**

**BETWEEN**

**UNIVERSITIES ACADEMIC STAFF UNION EGERTON CHAPTER/  
BRANCH ..... CLAIMANT**

**AND**

**EGERTON UNIVERSITY ..... 1<sup>ST</sup> RESPONDENT**

**COUNCIL, EGERTON UNIVERSITY ..... 2<sup>ND</sup> RESPONDENT**

**VICE-CHANCELLOR, EGERTON UNIVERSITY ..... 3<sup>RD</sup> RESPONDENT**

**AND**

**BOARD OF TRUSTEES, EGERTON UNIVERSITY RETIREMENT BENEFITS  
SCHEME ..... INTERESTED PARTY**

**KENYA UNIVERSITIES STAFF UNION, EGERTON UNIVERSITY  
BRANCH ..... INTERESTED PARTY**

**RETIREMENT BENEFITS AUTHORITY ..... INTERESTED PARTY**

**RULING**

**I. Introduction**

1. The claimant, represented by Mirugi Kariuki & Co. Advocates, commenced this cause by way of a memorandum of claim dated 10<sup>th</sup> March, 2023 filed in court on 13<sup>th</sup> March, 2023 seeking for the following reliefs –

1. That this Honourable Court renders judgement in favour of the Claimant, therein making a finding that the 1<sup>st</sup> Respondent duly owes the Claimant’s membership, by end of February,



2023, unremitted pension contributory benefits totaling to approximately, One Billion, Three Hundred and Forty Three Million, Six Hundred and Forty Four Thousand, Five Hundred and Twelve Shillings(1,343,644,512), or such other amount as may be ascertained by the 1<sup>st</sup> Interested Party; and that the unremitted amount has been attracting monthly compound interest of 3%, until such time the same shall be paid in full; and that the interest shall continue to accrue to any unremitted monies accruing from the month subsequent February, 2023.

2. A finding by the Honourable Court this Honourable Court that the applicable Collective Bargaining Agreement between the Claimant and the Respondent is binding upon the Claimant and the 1<sup>st</sup> Respondent, with clear terms contributory obligation of each party; and any variation thereto would have to invite a revision of the Collective Bargaining Agreement.
  3. A declaration by this Honourable Court that pension or gratuity is a severance benefit to which an employee has an absolute right thereto, being a responsibility of the employer; and where a pension scheme is contributory, it would amount to unfair labour practice, to set the employer's minimum contribution being less than employees contribution.
  4. A permanent order of injunction (including interlocutory temporarily order of injunction) restraining the defendant from implementing its decision, reviewing its pension contributory obligation from 20% to 1%.
  5. That costs of this claim be provided for and be borne by the Respondents.
2. Contemporaneously, the claimant filed a notice of motion of even date under a certificate of urgency seeking the following orders –
1. Spent
  2. That pending hearing and determining of this application inter-partes, the Honourable court be pleased to issue an order of temporarily injunction, restraining implementation of Respondents' purported decision to the effect that the 1<sup>st</sup> Respondent's pension contributory obligation to Egerton Retirement Benefits Scheme with respect to the Claimant's membership, is reviewed from 20% to 1% on the basis of its notice to the 2<sup>nd</sup> Interested Party issued on the 27<sup>th</sup> June, 2022.
  3. That pending hearing and determining of this cause, the Honourable Court be pleased to issue an order of temporarily injunction, restraining implementation of the Respondents' purported decision to that effect that the 1<sup>st</sup> Respondent's pension contributory obligation to Egerton Retirement Benefits Scheme with respect to the Claimant's membership, is reviewed from 20 to 1%, on the basis of its notice to the 2<sup>nd</sup> Interested Party issued on the 27<sup>th</sup> June, 2022.
  4. That costs of this application be provided for and be borne by the Respondents.
3. When the matter came up in court on 14<sup>th</sup> March, 2023 for the ex parte consideration of the above application the court issued the following interim orders –
1. That the said application is certified urgent.
  2. That pending the hearing and determination of the said application inter-partes an order be and is hereby issued in the nature of a temporary injunction restraining the Respondents' decision to reduce the 1<sup>st</sup> Respondent's contributory obligation to Egerton Retirement Benefits Scheme with respect to Claimant's membership from 20% to 1% on the basis of a



notice to the 2<sup>nd</sup> Interested Party issued by the Respondents on 27<sup>th</sup> June, 2022 or any other notice issued on any other date.

3. That the pleadings herein together with a copy of this order be served upon the Respondents and the Interested Parties immediately and in any event before the close of business on Friday, 17<sup>th</sup> March, 2023.
4. That the parties and or their Counsel appear before this court on Tuesday 21<sup>st</sup> March, 2023 for further orders and or directions.
4. On 21<sup>st</sup> March, 2023 the matter came up for further orders and directions in regard to the above application and the above interim orders were extended, pending the inter-partes hearing and determination of the application, with the concurrence from counsel for the claimant, Mr. Karanja, and counsel for the respondents, Mr. Ndubi.
5. In the meantime, on 3<sup>rd</sup> May, 2023, pending the hearing and determination of the above application, the respondents filed a notice motion (the application) dated 2<sup>nd</sup> May, 2023 seeking the following orders –
  1. That Honourable Justice D.N. Nderitu be pleased to disqualify or recuse himself from hearing and determining this matter and this file be placed before any other court for hearing and determination of this matter.
  2. That costs of this application be in the cause in any event.
6. On 17<sup>th</sup> May, 2023 it was agreed by counsel for the claimants and respondents, and the court directed accordingly, that the above application be heard ahead of the other pending application alluded to above. Further, it was agreed and directed by the court that the application be canvassed by way of written submissions. The interested parties opted not to participate in this application. It is this application, seeking recusal of this court from handling this cause, that is the subject matter of this ruling.
7. The application is expressed to be brought “Pursuant to Article(s) 48, (and) 50(1) of the Constitution, Section 3 and 12 of the Employment and Labour Relations Court (,) Regulation 21 of the Judicial Service (Code of Conduct and Ethics) Regulations 2020, the Bangalore Principles of Judicial Conduct and Order 51 Rule 1 of the Civil Procedure Rules and all other enabling provisions of the law”.
8. The application is based on the grounds on the face of it and supported with the affidavit of Prof. Isaac Kibwage, the 3<sup>rd</sup> respondent, on his own behalf and that of the other respondents, sworn on 2<sup>nd</sup> May, 2023.
9. In response to the application, the claimant filed a replying affidavit sworn by Dr. Grace Wanjiru Kibue, the secretary of the claimant, sworn on 15<sup>th</sup> May, 2023.
10. Counsel for the respondents (applicants) filed his written submissions on 26<sup>th</sup> May, 2023 and counsel for the claimant filed on 21<sup>st</sup> June, 2023. Counsel for both sides also availed to court copies of the authorities cited in their respective submissions.

## II. Respondents'/applicants' Case & Submissions

11. In the grounds on which the application premised and the supporting affidavit, the respondents state that Egerton University (the University) is a public institution that is funded and capitated by the Government of Kenya (GOK) and that it has been facing serious financial challenges due to lack of the expected capitation. That as a result of the said lack of funds the University is unable to meet its



- financial needs and obligations culminating in its inability to pay its academic and non-academic staff their full monthly salaries, wages, remuneration, and or dues.
12. It is stated that the claimant filed Nakuru ELRC Cause No 16 of 2022 – Universities Academic Staff Union, Egerton Chapter v Egerton University & others (Cause 16 of 2022) wherein this court issued interim orders for which the court subsequently found the respondents to be in contempt on 7<sup>th</sup> December, 2022 and imposed a fine on the contemnors.
  13. It is alleged that the court demonstrated actual bias by dealing with the former cause as it did and proceeding to find the respondents in contempt of the court orders and imposing fines on them. It is stated that the court failed to give the respondents a hearing on the financial status of the University and that the matter before the court now, this cause, is directly related to the financial status of the University and its ability or inability to meet its financial needs and obligations. It is claimed that in view of how this court dealt with the aforementioned cause it has a pre-determined mind and may not be impartial in dealing with the issues in contest in this instant cause.
  14. Further, it is alleged that the interim orders issued by this court in this cause on 14<sup>th</sup> March, 2023 have a huge implication on the financial status of the University and for that reason the respondents are not comfortable with or expecting fairness and impartiality from this court.
  15. It is further alleged that this court has demonstrated bias against the respondents by proposing that the members of the 2<sup>nd</sup> respondent and the 3<sup>rd</sup> respondent should resign yet the financial woes of the University are due to lack of capitation from the GOK.
  16. In their written submissions learned counsel for the respondents have recited the foregoing alluding to the aforementioned cause that culminated in the contempt proceedings as a case study for the manner in which the court is likely to deal with this instant cause. It is reiterated that the University relies on GOK capitation and students' fees in financing its operations including payments of salaries, allowances, benefits, and emoluments.
  17. Counsel argue that with the court having issued the interim orders in this cause, which remain in force, the writing is on the wall that the court has made up its mind on the outcome. It is submitted that the court has a predisposed mind to granting the prayers sought which shall seriously hamper the operations of the University.
  18. Counsel has recited and reproduced Regulations 9 and 21 of the [Judicial Service \(Code of Conduct and Ethics\) Regulations 2020](#) as the basis for the application. Counsel has also cited [Republic v David Makali & 3 others](#) (1994) eKLR, [Jan Bonde Nielson v Herman Philipus Steyn & 2 others](#) (2014) eKLR, and [Philip K. Tunoi & another v Judicial Service Commission & another](#) (2016) eKLR, *inter alia*, in expounding on the basis and grounds upon which a judge should disqualify himself or herself from handling and dealing with a matter.
  19. In laying emphasis on the reasonable man's test, counsel has cited [Jasbar Singh Rai & 3 others v Tarlochan Singh Rai & 4 others](#) (2013) eKLR and insisted that in view of the orders made against the respondents in the earlier cause, and the *ex-parte* orders already issued in this cause, a reasonable man would hold the view that the court is biased against the respondents and that the court is not likely to arrive at a fair and just conclusion of the matter. It is insisted that the financial woes facing the University which has led to all manner of financial problems have not arisen out of financial mismanagement or fault on the part of the respondents but due to the failure by the GOK to capitate the institution as expected.



20. It is on the basis of the foregoing that the respondents pray that the application be allowed with no order as to costs.

### **III. The Claimants' Case and Submissions**

21. In the replying affidavit by Dr. Grace Wanjiru Kibue in opposition to the application, the claimant has taken a diametrically opposed view from that of the respondents in regard to the impartiality of this court and its ability to render an impartial, fair, and just adjudication in the matter. It is stated that the application has been filed in bad faith and taste with the sole purpose of misleading the court and circumventing justice.
22. It is stated that no compelling reasons have been given to warrant the recusal of this court from hearing and determining this cause. It is stated that all the leading authorities in the subject of recusal of a judge are in favour of this court handling this cause to its logical conclusion. It is stated that the application by the respondent, if allowed, would be tantamount to forum shopping wherein parties are allowed to place their disputes before the courts wherein they expect favourable orders, directions, rulings, and judgments. It is stated that such a scenario shall completely negate and defeat the essence of the rule of law in fair trial and hearing.
23. It is stated that no bias, real or perceived, has been demonstrated by the respondents other than unsubstantiated allegations and that the application is intended to stop the court from executing its judicial function in hearing and determining the matter and issues in contest between the parties.
24. In his submissions, counsel for the claimant has cited *Gladys Boss Shollei v Judicial Service Commission & another* (2018) eKLR emphasizing that a judge, unless for well demonstrated cause, has a duty to sit, hear, and determine any matter before him or her. It is submitted that recusal should not be resorted to as a tool to cripple the judge's authority, duty, and obligation to hear and determine a matter in accordance with the oath of office taken before a judge assumes office.
25. It is submitted that it is not adequate to just allege likelihood or apprehension of bias. The alleged bias has to be on reasonable grounds in the mind of a reasonable and fair-minded man who is well seized of the obtaining facts and circumstances. In other words, the test is objective as opposed to a subjective view of a litigant who may express unfounded fear or apprehension of bias. Such fear or apprehension is unreasonable and unfounded and hence fail the test of a reasonable and fair- and right-minded person seized of the facts and circumstances of the matter. Mere suspicion, flimsy, and baseless allegations against a judge shall not suffice.
26. Counsel has cited numerous cases in support of the claimant's position, most of which affirm the same position as espoused above, and the court shall consider them in making the decision hereunder.
27. It is on the basis of the foregoing that the claimant seeks that the application for recusal be dismissed with costs.

### **IV. Issues for Determination and Analysis**

28. In the entirety of the application the Respondents are seeking that this court recuses itself from handling and hearing of this cause because the respondents are allegedly apprehensive that they will not receive an impartial hearing as the court has allegedly acted with bias against them not only in this matter but also in the other cause.
29. Therefore, from the application, the supporting and replying affidavits filed from both sides respectively, and the able submissions by counsel for the parties, there is only one substantive issue



for determination – Should this court disqualify itself from handling, conducting, hearing, and determining this cause? And then, what is the appropriate order on costs?

## V. Determination

30. This court is familiar with, as it should be, the provisions in Article 50 of the Constitution and Regulation 21(1) of the Judicial Service (Code of Conduct and Ethics), 2020 on the requirements that a judge or a judicial officer shall be impartial and the need for recusal where the impartiality of the judge or officer is reasonably questioned on reasonable grounds.
31. In President of the Republic of South Africa v The South African Rugby Football Union & others CCT/98 and Philip K. Tunoi & another v The Judicial Service Commission & another (2016) eKLR the test is clearly set on what amounts to conflict of interest or circumstances that may render a judge's impartiality questionable. In Philip K. Tunoi (*supra*) the Court of Appeal cited Porter v Magill to the effect that – “The Court has to address its mind to the question as to whether a reasonable and fair-minded man sitting in the Court and knowing all the relevant facts would have a reasonable suspicion that a fair trial for the applicant was not possible. If in the affirmative, disqualification is inevitable”
32. The court has carefully gone through all the evidence and materials presented and it appears that the respondents have based their entire application on the premises that in view of the orders issued by this court in Cause 16 of 2022, and the interim orders issued in the instant cause, they are apprehensive that the court shall not hold an impartial view in hearing and determining this cause. It is argued that this cause and the former one concern and relate to the dire financial status of University for which the respondents are not to blame. It is further alleged that the court has in the past made off-the-record remarks suggesting that the 3<sup>rd</sup> respondent and members of the 2<sup>nd</sup> respondent should resign in the face of the financial woes facing the University.
33. As the old adage goes, each case on its own merits. The respondents herein are represented by some of the best lawyers in town, Mr. Konosi and Mr. Ndubi, with a combined accumulated legal mileage and experience of over 60 years. If and or where a court issues an order in a ruling or a judgment which a litigant considers to be illegal, unlawful, incorrect, undesirable, or not appropriate, for any reason, such a party has an eternal right to challenge the same via the established lawful avenues. It does not mean or imply that the court that issued such an order is biased or against the unhappy party. In any event, in an adversarial judicial system one party shall ultimately win the legal battle or at least go home happy, while the other may not be so impressed.
34. A cautious, conscious, and reasonable court of law, and this court is such one, shall and should never wait to be moved to recuse itself from a matter. Impartiality is such a core and central value to the work of a judge to the extent that a judge who does not understand and or appreciate when to leave a matter for another judge to handle, either for personal conflict or any other reasonable cause, is oblivious of the import of his oath of office and the attendant professional ethics.
35. It should not be lost on anyone that if and where a litigant is dissatisfied with a court order or judgment, there are at least two lawful options available to such a party. One, the aggrieved party may apply for review, or two, the party may appeal against the offending order. That is what the rule of law dictates and it is by those rules that courts operate in a civilized and mature democracy such as Kenya.
36. It is curious that the respondents have deliberately or otherwise refused and or neglected to inform the court of the status of the former cause. This court's understanding is that the proceedings in that cause were stayed by the Court of Appeal pending the hearing and determination of the appeal. Likewise, no matter whatever the little inconvenience, if the respondents are not happy or comfortable with the outcome of this cause or any of the interlocutory orders or rulings they should move with dispatch



- to the hierarchically superior court and apply for stay, vacation, or setting aside of any orders issued by this court.
37. While it is a right of every litigant to file any lawful application in court, the application by the respondents is rather unfortunate. The fact that the court found not in their favour in the former cause does not mean that this cause shall follow suit. Each case is decided on its own merits, evidence, facts, and circumstances. The subject matter in this cause is substantially different from the former cause. This cause is about retirement benefits while the former was about salaries and remuneration. However, both of them relate to alleged failure by the respondents in meeting their lawful obligations and honouring their bargain.
  38. The court issued interim orders maintaining *status quo ante*. That does not of itself point towards the direction that the matter shall ultimately take. It is upon the respondents, through their able counsel and by evidence, to demonstrate to the court that the position they have taken in their responses to the cause and the application has merits. This cause and the former one are fairly straight forward concerning the rights of employees and obligations of an employer. Those are matters that shall be determined on the facts and evidence presented and the law, including the *Constitution* and the applicable statutes. The role and the duty of this court is that of an impartial umpire and the court has no interest in the outcome whatsoever other than serving justice. Whatever the outcome at the end of the day, the dissatisfied party has a right to apply for review or appeal in accordance with the law. That is how the rule of law operates in a civilized democracy. If parties were given a leeway to choose the judge to hear and determine their matters, that shall lead to forum shopping and anarchy in the judicial system of unprecedented proportions.
  39. The court is aware and very alive to the judicial code of conduct and ethics and the principles applicable to judicial officers in delivery of judicial services, including the *Bangalore Principles*. Of course, impartiality is a core principle as no man should be a judge in his or her own case. Impartiality is lost and compromised when a judge has an interest in a matter by virtual of a personal interest, that of a spouse, member of family, a friend, an associate, or in whatever other manner conceivable. The rationale and logic is that an interest or bias in a matter obscures the view of the judge, making him or her to descend into the arena of the combatants, suffer prejudice or bias, and ultimately the judge fails to be fair and just in the disposal of the subject matter.
  40. It is commonsense that once a judge realizes that he or she has an interest in a matter he or she should not take any further step in the matter but should recuse himself or herself at the earliest opportunity and submit the matter to an impartial court to deal. It would be against the law, ethics, morals, and the eternal conscience for a judge to continue handling a matter wherein he or she has an interest or has come to learn of such interest, no matter how remote, as continuing handling such a matter goes against the oath of office that each judge or judicial officer takes before commencing duty. This is what this court stands for and shall forever live for.
  41. This court wishes to state categorically that it has neither personal interest whatsoever in this matter nor bias for or against either side. The court should have recused itself the very first day that the cause came before me if that was the case, as this court stands for and shall eternally stand for professionalism, impartiality, fairness, law, and justice.
  42. If and where a party is dissatisfied with an order or judgment from the court the proper and recognized legal way of challenging the same is by way of an appeal or review. If it is allowed that every dissatisfied party applies for the recusal of the judge trials shall then become mockery of justice and forum-shopping shall be entrenched.



43. It is no secret that the parties herein have been embroiled in legal battles for a long time. There are numerous matters before this court and others before my sister Wasilwa J. Are the respondents, by any stretch of their imagination, suggesting and proposing that all their matters should not be heard by this court and should go to the other court? What of if the claimants were to take a similar stand and insist that all their matters should go before a particular judge? Is that not what forum-shopping is all about, that a party chooses a judge from whom it may expect favourable orders? Such a scenario shall lead to absurdity unknown to law and justice. No court, let alone this one, should countenance such an illegal arrangement.
44. A judge has a duty, indeed an obligation, to hear and determine all matters that come before him or her without fear or favour. In *Gladys Boss Shollei v Judicial Service Commission & another* (*supra*) SCJ Ibrahim expressed the duty to sit as follows “Though not profound in our jurisdiction, every judge has a duty to sit, in a matter which he duly should sit. So that recusal should not be used to cripple a judge from sitting to hear a matter. This duty to sit is buttressed by the fact that every judge takes oath of office “to serve impartially; and to protect, administer and defend the *Constitution*”. It is a doctrine that recognizes that having taken the oath of office, a judge is capable of rising above any prejudices, save those rare cases when he has to recuse himself. The doctrine also safeguards the parties’ right to have their cases heard and determined before a court of law”.
45. In *Kaplana Rawal v Judicial Service Commission & 2 others* (2016) eKLR the recusal of a judge is described as a necessary evil, because while a judge is expected to be impartial at all times in the matters before the court, in accordance with the oath of office, an application for recusal calls into question the impartiality of a judge. And it is for this very reason that a judge should not wait to be prompted to recuse in matters wherein he has a reason for doing so. A good judge holds no personal interest in a matter; he has no property in the cause; he is blind to the parties; and suffers no bias or prejudice for or against either party. A judge’s single mind is to deliver justice in the cause and to all the parties, period! That is what this court stands for.
46. From the plethora of authorities available and those cited by counsel for both parties, the test applicable is that of a reasonable man. This is a fairly objective view as opposed to the subjective view of a litigant or a party. This removes the test from the parties who are combatants in the cause and hence their view is obscured by their respective personal or other interest in the matter and the outcome thereof. The judge, as repeated over and over again above, is an impartial umpire.
47. The question then is – would a reasonable man, with full knowledge of the facts and circumstances of this cause, as articulated in the foregoing parts of this ruling, take the view that the respondents are likely not to obtain justice before this court? In my view, the answer is an emphatic no!
48. A reasonable man’s view shall not be obscured by unreasonable views or views based or founded on unrealistic grounds. The apprehension for bias should be reasonable – See Mativo J (as he then was) in *National Water Conservation & Pipeline Corporation v Runji & Partners Consulting Engineers & Planners Limited* (2021) eKLR Judges are expected to be reasonable professionals who should disabuse their minds of any prejudice or bias and in case of conflict of interest surrender a cause to another judge at the earliest opportunity without waiting to be prompted.
49. The court is pained and disappointed with this application. What personal or other interest would this court have in the outcome of this matter? Neither of the parties is personally known to the court, the University is a public institution operating on funds from the tax payer, and like all citizens of goodwill the judge shall be very pleased to see the institution operate optimally and smoothly as it should. The allegation that the court has proposed that the members of the 2<sup>nd</sup> respondent and the 3<sup>rd</sup> respondent should resign is in particular made in bad faith and taste and only intended to embarrass the court. In



fact, this court has in the past advised that the University is not helpless or hopeless in the face of the mounting financial stress that the University allegedly continues to suffer and that the management may consider applying Section 40 of the *Employment Act* and declare some employees redundant to reduce the payroll burden. The bottom-line is that this court has no personal or other interest in the legal battles between the parties and it is in the public interest that the University be managed well and run optimally for the benefit of all.

50. To state the obvious, courts do not solicit for matters to be filed in court and judges do not solicit for matters to be allocated to their individual courts. A judge, unless for good reason, has a duty and indeed an obligation to sit, hear, and determine all matters allocated or falling in his or her jurisdiction. Far-fetched and unfounded wild allegations of bias by parties or counsel should not be entertained or allowed to interfere with the smooth flow of proceedings. It is also not enough for a party to cry out timeo!
51. At the end of the day, in an application for recusal, the question is this – Would a reasonable person, seized of the facts and circumstances of this cause, and even the former cause, form or hold the opinion that the respondents shall suffer bias and not enjoy justice? This is the test that is articulated by both sides and supported in the multitude of authorities cited.
52. I have carefully, over and over again, gone through this application and the materials placed before the court and I am not persuaded at all that this court shall not render justice in this matter. All the parties are encouraged and assured, if any encouragement and assurance was needed, that the court shall remain, as it should, impartial, fair, and just to all the parties at all times and hear the matter to its logical conclusion.
53. The court has this far said enough to demonstrate that the application herein is misguided and misconceived and the same is hereby dismissed. The respondents have not persuaded and or convinced this court that a reasonable person examining and analyzing the facts and the circumstances of this cause (See - *Porter v Magill*, *Philip K. Tunoi & another v Judicial Service Commission* (*supra*), *Jabir Rai & others v Tarcholan Sing Rai & others*) would conclude that the respondents shall not be served justice by this court in this cause. Contrary to the position adopted by the respondents, and this court hereby assures the respondent, the court shall hear and determine the cause on merits based on the facts, evidence, the law, and nothing more.
54. Consequently, the notice of motion dated 2<sup>nd</sup> May, 2023 by the respondents is hereby dismissed with costs in the cause.
55. This cause and all the interlocutory or incidental proceedings shall proceed for hearing and determination in this court.

**DATED, SIGNED, AND DELIVERED VIRTUALLY AT NAKURU THIS 16<sup>TH</sup> DAY OF NOVEMBER, 2023.**

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**DAVID NDERITU**

**JUDGE**

