



Noor v Kenya National Examinations Council (Employment and Labour Relations Cause 855 of 2018) [2022] KEELRC 12902 (KLR) (14 October 2022) (Judgment)

Neutral citation: [2022] KEELRC 12902 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
EMPLOYMENT AND LABOUR RELATIONS CAUSE 855 OF 2018**

**SC RUTTO, J
OCTOBER 14, 2022**

BETWEEN

AMBIA GUHAD NOOR CLAIMANT

AND

KENYA NATIONAL EXAMINATIONS COUNCIL RESPONDENT

JUDGMENT

1. The claimant was employed by the respondent with effect from April 1, 1999 and served in various capacities culminating in her appointment as Director of Examinations Administration on March 17, 2014. That was to mark her last appointment with the respondent as she was retired in public interest on April 25, 2016. It is that retirement in public interest that has triggered the instant suit. The claimant deems her retirement in public interest as malicious, bad in law and without any justification. It is for this reason that she prays for compensatory damages for unfair termination, punitive damages for breach of her right to dignity under Articles 28 and 23(3) (e) of the Constitution, costs of the suit together with interest.
2. Opposing the claim, the respondent has contended that the claimant's tenure of office was plagued by examination leakages and cheating at an alarming proportion, never before witnessed in the country occasioning a huge public outcry. That in an effort to contain the deteriorating situation in the administration of the national examinations, the government dissolved the then council of the respondent and appointed new council members. That following preliminary investigations, supported by the state security and intelligence agencies, the new council suspended several managers including the claimant, on account of being directly by commission or omission, involved in leakages of examinations.
3. The respondent denies malice in retiring the claimant in public interest and avers that she was issued with a show cause letter listing the allegations against her. That she failed to offer any justification why



she could not be retired in public interest. That as such, she is not entitled to award of damages as prayed. To this end, the respondent has asked the Court to dismiss the claim with costs.

4. The matter proceeded for hearing on May 26, 2022, and both sides called oral evidence.

Claimant's case

5. The claimant testified in support of her case and at the outset, sought to rely on her witness statement and the bundle of documents filed together with the Claim, to constitute her evidence in chief. She proceeded to produce the said documents as her exhibits in Court.
6. It was the claimant's testimony that following dissolution of the respondent's council, police officers stormed the respondent's offices and arrested the then Chief Executive Officer alongside seven other senior officers including herself. That she was taken to the Nairobi County police headquarters where she recorded a statement, explaining her functions in detail and denying any negligence or complicity in any of the irregularities and/or illegitimate activities in the examinations scam. That she was later released at night and summoned to appear again for further questioning on March 25, 2016, March 31, 2016, April 7, 2016 and April 14, 2016. That no criminal charges were preferred against her.
7. The claimant further told Court that on March 29, 2016, she was served with a suspension letter signed by the newly appointed chairperson of the respondent. That her suspension was to pave way for investigations into the examinations scandal. That on April 15, 2016, she was issued with a letter asking her to show cause why her employment should not be terminated. That she responded to the said letter and despite her written request to appear in person accompanied by a representative of her choice, no disciplinary hearing was scheduled or concluded.
8. The Court further heard that on April 25, 2016, the claimant was issued with a letter retiring her in public interest. That she was not issued with a notice prior to her retirement in public interest. That she lodged a timely written appeal on May 23, 2016 against her retirement in public interest, wherein she reiterated her wish to appear in person and be heard.
9. That after several written demands for a hearing, she was formally invited to appear before the respondent's council on September 28, 2016. That she appeared accompanied by her legal representative and fully demonstrated why both her suspension and retirement in public interest were malicious, bad in law and without any justification. That the respondent indicated that it would communicate its decision within a fortnight but she has never received any response to date.
10. It was her further testimony that her contract did not have a clause on retirement in public interest. That her name was adversely mentioned in media reports and this affected her dignity as she was portrayed as a wolf in sheep skin. That she also became a laughing stock. That throughout her employment, she had never been served with any warning. Concluding her testimony, the claimant asked the Court to grant her compensation for unfair termination as her career was nipped in the bud.

Respondent's case

11. The respondent's evidence was presented through Ms. Befly Jemurgor Bisem, who testified as RW1. She identified herself as the respondent's Corporation Secretary and Deputy Director, legal services division. At the outset, RW1 stated that she knows the facts of the case to the extent of the records held by the respondent, as she was employed in March, 2017, after the claimant's exit. She proceeded to adopt her witness statement and documents filed on behalf of the respondent to constitute her evidence in chief. The said documents were also produced as the respondent's exhibits before Court.



12. RW1 testified that the claimant's duties placed her at the helm of administration of examinations on behalf of the respondent and the public at large. That for a considerable part of the claimant's tenure as the head of examination administration, there were massive examination leakages which went unchecked. That this occasioned a huge public outcry. That the Government had no alternative but to disband the respondent's council. That the new council had the responsibility of restoring public confidence in the respondent's role and duty.
13. It was RW's further testimony that the claimant was in charge of examinations hence in the event of any leakage, she would be responsible. That as head of examination administration, any failure in that aspect lay squarely with the claimant. That the claimant coordinated the examinations in the field, as well as processing and release of the candidates' marks. That reports from security agencies revealed that senior managers under the claimant's watch were actively involved in the theft of examination papers and their dissemination to the would-be candidates prior to dates when the papers were to be sat.
14. RW1 further told Court that at its meeting held on March 29, 2016, the respondent's council resolved to suspend the claimant together with other senior employees to allow investigations. That after her suspension, the claimant was issued with a show cause letter listing the specific acts of allegations against her. That the claimant was given an opportunity to defend herself before a final decision to retire her in public interest and her representations were taken into consideration. That the respondent found her representations to be unsatisfactory hence the public interest was that her conduct rendered her unsuitable for retention. That at the time, various heads of the respondent exited due to massive examination leakage and public outcry. That the claimant's department was the core of the examinations hence the respondent's decision to retire her in public interest. In summing up her evidence in chief, RW1 denied malice on the part of the respondent in retiring the claimant.

Submissions

15. It was submitted on behalf of the claimant that her right to fair administrative action and right to due procedure were infringed during the disciplinary proceedings. To support this argument, reliance was placed on the case of *Republic vs Kenya National Examinations Council ex parte Thomas Mackenzie (2016) eKLR*. Citing the case of *Joseph M Kivilu vs Kenya National Examination Council (2021) eKLR*, it was further submitted on behalf of the claimant, that the respondent had no mandate to suspend her as conviction had not been established.
16. It was the claimant's further submission that being in charge of examinations did not and could not automatically link her to the wrong doings in the department. That the onus was upon the respondent to prove that she was linked to the alleged exam leakage. To buttress this argument, the Court was invited to consider the determination in the case of *Richard Isaac Mwangangi Vs Kenya National Examinations Council Cause Number 915 of 2016*. The claimant further argued that she was stripped of her right to dignity, guaranteed under Article 28 of the *Constitution*. That the decision to involuntarily retire her was not only extremely outrageous but caused emotional distress as the decision was in bad faith, unlawful, harsh, vindictive that went beyond the bounds of decency and dignity of an employee who had dedicated 17 years of service to the respondent.
17. On its part, the respondent urged that retirement in public interest is distinguishable from termination of service on account of commission of an employment offence against the public institution with whom the employee has a contract. That as the director of examination administration the claimant cannot be heard to say that she was not blame worthy. That even if the public could not hold her liable for specific acts, the public would be justified not to trust her to hold any position in the examination administration. The respondent in further submission argued that retirement in public interest is not



a punishment but an administrative action taken by governments in the interest of public order, safety and harmony. In support of this argument, the respondent sought to rely on the case of *Bal Kishan Grag vs The State of Rajasthan and others RWL 2005 (3) Raj 2005*. That therefore, the respondent was justified in retiring the claimant on grounds of public interest.

18. The respondent further submitted that an employer employee relationship is one founded on trust. The cases of *Charles Mungai Gakuo vs Aromah Restaurant Ltd (2016) eKLR* and *Kenya Revenue Authority vs Renwel Waitbaka Gitahi & 2 others (2019) eKLR* was cited in support of this position.
19. As regards the disciplinary hearing, it was the respondent's submission that the circumstances of this case did not warrant an oral disciplinary process and the letters exchanged between the claimant and the respondent sufficed. To this end, the respondent invited the Court to consider the findings in the cases of *Kenya Revenue Authority vs Menginya Salim Murgani (2010) eKLR* and *Postal Corporation of Kenya vs Andrew K Tanui (2019) eKLR*.

Analysis and determination

20. Flowing from the pleadings, evidence and submissions on record, the following issues stand out for determination: -
 - a. Whether retirement in public interest was available as a mode of terminating the employment relationship.
 - b. Whether retirement in public interest is distinguishable from termination of service within the meaning of the *Employment Act*.
 - c. Whether the respondent had mandate to suspend the claimant.
 - d. Whether the respondent had justifiable cause to retire the claimant in public interest.
 - e. Whether the claimant was subjected to due process prior to being retired in public interest.
 - f. Is the claimant entitled to the reliefs sought?
Whether retirement in public interest was available as a mode of terminating the employment relationship.
21. The claimant in challenging her retirement in public interest, has contended that the same was not provided for in her employment contract. This is not accurate given that clause 14.17.12 of the respondent's Human Resources Policies Procedure and Terms and Conditions of Services Manual (hereinafter the HR Manual) has provided for the same.
22. In terms of clause 3.1.1 of the said HR Manual, the claimant being an employee of the respondent, was bound by the provisions of the manual as well as the regulations, rules and instructions issued by the respondent's council secretary.
23. Besides, the claimant has sought to rely on certain provisions of the same HR Manual to challenge the process applied by the respondent in her retirement in public interest. Thus, the claimant cannot cherry pick the provisions applicable to her and vice versa. She cannot have her cake and eat it too. She was subject to the entire HR Manual.
24. To this end, I find that retirement in public interest was open for application by the respondent, subject to justification of reasons and compliance with due process.
Retirement in public interest vs termination of service under the *Employment Act*



25. The respondent has contended that retirement in public interest is distinguishable from termination of service. That the same is not a punishment but an administrative action taken by governments in the interest of public order, safety and harmony.
26. The respondent has provided for retirement in public interest under clause 14.17.12 of its HR Manual as follows: -
- ' This will normally apply to an officer on permanent and pensionable terms who commits an offence which render him/her unsuitable for retention or when their performance and/or general conduct have deteriorated to an extent which render them unsuitable for retention.'
27. It is therefore evident from the foregoing clause that retirement in public interest applies to officers who have committed an offence which renders him or her unsuitable for retention in service. Accordingly, the same is used as a form of disciplinary measure where an employee has committed an offence or where his or her conduct has fallen short of the employer's expectations, thus rendering him or her unsuitable for retention.
28. I therefore disagree with the respondent's argument that it is distinguishable from termination of service on account of commission of an employment offence against a public institution. Either way, it has the same result as a termination or dismissal given that ultimately, the employee is put out of employment involuntarily at the behest of the employer.
29. On this score, I wish to reiterate the pronouncement by Rika J in the case of [*DK Njagi Marete vs Teachers Service Commission \[2013\] eKLR*](#), thus: -
- ' 18. Retirement on public interest is a form of termination of employment, instigated by the employer, and would therefore fit the description of involuntary termination. It is not necessarily the result of a disciplinary process. It may for instance, result from an administrative decision by the employer, taken for the removal of persistent non performers from the employer's business. As a decision based on public interest results in termination of employment, it would fall within the requirements of Section 43 of the [*Employment Act*](#) 2007. It is the responsibility of the employer to prove the reason or reasons for the retirement.'
30. Accordingly, the mere fact that an employee is retired in public interest does not oust the provisions of the [*Employment Act*](#), requiring the employer to provide a justification of reasons and to follow due process. It still remains a form of termination of employment.
31. As rightfully held in the case of [*Sheikh Abubakar Bwanakai Abdallah vs Judicial Service Commission & another \[2017\] eKLR*](#), retirement in public interest is a discretion that is susceptible to abuse and unconstrained, it allows public bodies to terminate public officers' service without justification and makes termination of employment without assigning of valid reasons, possible.
32. The Court further held in the case of *DK Njagi Marete vs Teachers Service Commission* (supra) that: 'If public employers are allowed to merely invoke public interest in retiring employees, without giving elaboration of the circumstances giving rise to the infringement of public interest, the employment protections given under the [*Employment Act*](#) 2007 would be meaningless to public servants.' I wholly agree with this determination.



33. Therefore, despite being christened differently, retirement in public interest is a termination of employment for all intents and purposes and its fairness or otherwise ought to be determined under the *Employment Act*.

Whether the respondent had mandate to suspend the claimant.

34. The claimant has questioned the legality of her suspension. It is her contention that the same was only applicable after conviction of a serious offence.
35. Suspension from employment is provided for under clause 12.29 of the respondent's HR Manual and is described as 'a disciplinary measure where the service of an employee is temporarily stopped pending his/her dismissal from service arising from a conviction of a serious criminal offence.'
36. In the instant case, it is notable that the claimant's suspension was effected in order to pave way for investigations.
37. In as much as the claimant's suspension was not pursuant to a conviction, it cannot be gainsaid that an employer has the right to suspend an employee pending a disciplinary process. Such was the determination by the Court of Appeal in the case of *Charles Muturi Mwangi vs Invesco Assurance Co Ltd [2019] eKLR* where it was held as follows: -

' On the second issue for determination indicated above, the appellant seems to be saying that there was no provision for his suspension in the contract of employment and so his suspension was unlawful. Without overstressing that argument, we can only say that we find that line of argument preposterous. We say so because, even in cases where employees are employed under permanent and pensionable terms, suspension and interdiction pending investigations for alleged misconduct is ordinarily part of the disciplinary process. Whether such suspension or termination was unfair is another issue altogether.'

38. Therefore, it is my finding that the respondent was within its right as an employer to suspend the claimant so as to pave way for investigations. It cannot be faulted to that extent.

Justifiable cause to retire the claimant in public interest?

39. It is the respondent's case that it was justified in retiring the claimant in public interest as a report which was prepared following investigations established that the claimant and 10 other employees were involved in examination leakages. The claimant disagrees and states that the respondent did not adduce any evidence, save for the newspaper cuttings, to link her to the examination malpractices and leakages as alleged.
40. The media reports exhibited by the respondent, which run from sometimes towards the end of 2015 towards early 2016, are awash with news on examination leakages and malpractices. Judging by the same, the integrity of the national examinations was being called into question and there was call for action by the relevant bodies including the respondent. Indeed, the claimant did not deny that there were examination irregularities at the time.
41. As it came to pass, the claimant was retired in public interest on allegations of gross misconduct relating to examination irregularities. The specific allegations against the claimant are contained in the notice to show cause dated April 15, 2016, which I will reproduce hereunder: -
- a. Together with others, allowed examination leakages right from the Test Development Department which is responsible for setting the national examinations.



- b. Together with others, identified potential targets for business for which you would supply papers and later raid schools that had supplies of leaked papers allegedly to make arrest only for you to receive bribes.
 - c. Passed on soft copies of those examinations material materials sent abroad for printing, to unauthorized persons.
 - d. Together with others, after marking of the national examinations, manipulated data at will, to favour candidates or schools that had paid out money in bribes.
 - e. Identifying preferred centres in Western and North Eastern Kenya and selling to them the KCPE/KCSE materials.
 - f. Acted in a manner that has brought the integrity of KNEC to disrepute as a result of wide leakages and irregularities associated with the 2015 national examinations.
42. The claimant denied the allegations in her response to the show cause letter. She stated that she had no access to the contents of any live examination paper in the performance of her duties. That she never participated in the setting, moderation and proof reading of examination at the Test Development Department. That these activities are considered to be highly confidential and are only undertaken by TD subject officers, their supervisors and the TD contracted professionals. That she oversaw the receipt, sorting, centering and dispatch of sealed and packaged examination materials from the abroad and local printers. That the examination materials were only available to her department during the sorting, centering and dispatch.
43. She further stated that she had never individually or together with others, identified potential targets for the business of supplying papers and had never raided any school nor made any arrests in the performance of her duties. That she never participated in the security monitoring teams, which investigates issues of examination irregularities and make arrests. That she had no access to examination papers and it was therefore practically not feasible to supply what was never in her custody. That she had never been deployed to the Manuscript division and had no access to the division since 2006. That it was therefore not her mandate to dispatch soft copies of the examination materials to authorized or unauthorized persons. That she had never individually or together with others, manipulated data at will, or under coercion to favour any candidate or school in her 17 years of service.
44. That she did not identify any examination centers in Western, North Eastern or any other part of Kenya for sale of the KCPE and KSCE examination materials as she had no access to the same. That she monitored Kajiado and Nairobi Counties during the administration of the 2015 KCSE examination.
45. As per the testimony of RW1, the claimant was implicated to the extent that during her tenure as head of examination administration, there were massive examination irregularities. That as head of examination administration, any failure in that aspect laid squarely on the claimant. That reports from security agencies revealed that senior managers under the claimant's watch, were actively involved in the theft of examination papers and their dissemination to the would-be candidates prior to dates when the papers were to be sat.
46. In order to put the issue into context, it is imperative to consider the claimant's broad duties, which entailed: -
- a. Coordinating the approval of examination distribution centres for all the School examination in the Examination Administration (EA) department.



- b. Coordinating the approval of examination centres and Halls for the administration of the School Examinations.
 - c. Coordinating the registration of candidates for KCPE, KCSE, PTE, DTE, TCAE, ECDE, SNE and Foreign examinations.
 - d. Coordinating the assessment of candidates with special needs in KCPE and KCSE examination.
 - e. Coordinating the centering of all School Examination papers for the administration of the examinations.
 - f. Receipt, dispatch, management and disposal of School Examinations Scripts, Stationery and all other examination materials.
 - g. Coordinating the administration of School Examinations in the field.
 - h. Coordinating the processing of candidates' marks and release of examination results for all School Examinations.
 - i. Coordinating the receipt, checking and packing of certificates for School Examinations.
 - j. Coordinating the handling of examination queries for the School Examinations.
 - k. Overseeing the implementation and compliance to ISO Quality Management System procedures, Performance Contract and Strategic Plan Targets.
 - l. Coordinating the preparation of the annual budgets and monitoring of the same in the School Examinations division.
47. In her testimony, RW1 stated that the claimant coordinated examinations in the field as well as processing and release of the candidates' marks.
48. In view of the fact that the allegations against the claimant were specific, there was need for the respondent to prove the same against her vis a vis her duties, so as to justify her retirement in public interest.
49. It is worth mentioning at this juncture, that under Section 43 and 45 of the *Employment Act*, the burden of proving the reasons for the claimant's retirement in public interest, lay squarely with the respondent.
50. I have carefully considered the minutes of March 31, 2016, which were exhibited by the respondent and I must say that the same do not reveal much as regards the claimant's culpability as an individual. Indeed, the extent of her individual responsibility in the examination malpractices was not explained.
51. Further, the confidential report alluded to in the said minutes and which apparently, was the smoking gun, was not availed to the Court. RWI testified in cross examination that the respondent did not conduct its own investigations and that it relied on investigations undertaken by external security agencies. It is not clear why there were no independent investigations by the respondent, so as to ascertain each of its officer's individual culpability and apportion blame accordingly.
52. Following the dissolution of the council that was in place at the material time, it was time for the respondent to interrogate the individual culpability of its officers in the examination malpractices. This could have been well achieved by the respondent undertaking its own investigations as an entity. This way, it would have been possible to discern the extent of each of its officers' individual



culpability. Indeed, there is no and there can never be collective responsibility when it comes to employee misconduct.

53. Seeing that the respondent already had insights into the culpability of its officers from the report by the security agencies, it ought to have used the same to undertake its own investigations, so as to narrow down the individual responsibility of each of its officers, in the examination malpractices.
54. As it is, the respondent did not lead any evidence to connect the claimant to the allegations levelled against her. It did not help matters either, for the respondent to wholly rely on a report based on investigations by an external agency and which report was not available for consideration by the Court. Indeed, one wonders how the respondent was able to arrive at the specific allegations levelled against the claimant without its own investigations and findings to that effect.
55. Over and above it was the claimant's testimony that in the course of her duties, she never came into contact with live examination papers. Her version was not discounted by the respondent and the contrary was not proved. The respondent was required to prove the claimant's responsibility in the examination irregularities in light of her duties. This, it failed to do.
56. The upshot of my consideration is that the respondent has not proved that it had a justifiable reason to retire the claimant in public interest.

Due process?

57. It is not in dispute that the claimant was issued with a notice to show cause which detailed the allegations leveled against her. The claimant responded extensively to the show cause letter vide her response of April 20, 2016, through which she endeavored to exonerate herself from any wrongdoing.
58. The bone of contention from the claimant's end is that prior to her retirement in public interest, she was not afforded an oral hearing despite her request.
59. It is apparent that the claimant was retired in public interest after she had submitted her response to the show cause letter. There is no evidence that she appeared for a hearing prior to her retirement. In any event, the respondent has not suggested that it convened one. It would thus seem that the determination was made on account of the claimant's response to the show cause letter.
60. The respondent has argued that the circumstances of the instant case did not warrant an oral disciplinary hearing and the correspondence exchanged between the parties sufficed.
61. In considering the significance of an oral hearing, the learned Judges of the Court of Appeal in the case of *Kenya Ports Authority vs Fadhil Juma Kisuiwa [2017] eKLR* rendered themselves thus: -

' It must however be stressed that the necessity of oral hearing will depend on the subject and nature of the dispute, the whole circumstances of the particular case.'
62. In the instant case, the claimant had expressly requested to appear for an oral hearing. It is not clear why her request was not granted. Further, the claimant was staring at the possibility of losing her source of livelihood and end of her career which had spanned close to 17 years. In the circumstances, it was only fair for the respondent to afford her a hearing prior to arriving at the decision to retire her in public interest. After all, it did not stand to lose anything by convening a hearing to hear out the claimant in person.
63. Interestingly, the respondent convened an oral hearing to hear claimant on her appeal. Oddly enough, the outcome of the said appeal hearing was left in abeyance as its outcome is yet to be communicated



to the claimant. Therefore, it did not make sense to convene the appeal hearing in the first place. In the end, the respondent breached clause 12.32.2 of its own HR Manual.

64. No matter how well intentioned the exercise commenced by the respondent to stem examination malpractices seemed, the same was executed through a flawed process, which ultimately rendered it unlawful.
65. In total sum, I find that the claimant was not subjected to due process hence her retirement in public interest was unlawful.

Reliefs

66. As the Court has found that the respondent did not prove justifiable cause to retire the claimant in public interest and failed to follow due process, she is awarded compensatory damages equivalent to eight (8) months of her gross salary. This award has also taken into account the length of the employment relationship.
67. The claim for punitive damages is declined as the compensatory damages awarded to the claimant are adequate to make good her loss. As was held in the South African case of *Le Monde Luggage cc t/a Pakwells Petze vs Commissioner G Dun and others, Appeal Case No JA 65/205*, the purpose of compensation is to make good the employee's loss and not to punish the employer. I further concur entirely with the sentiments of the Court in the case of *David Mwangi Gioko and 51 others vs Nairobi City Water & Sewerage Company Limited, [2013] eKLR*, where it was held that: -

' This court has in the past held that there is need in resolving employment disputes to pay heed to the principle of a fair go all round. This principle requires the court to balance the interest of the employer and that of the employee.'

68. The Court further declines to award notice pay and service pay as the same only surfaced during submissions. The claim for the same came too late in the day and in the wrong manner. It is trite law that parties are bound by their pleadings and submissions are not evidence.

Orders

69. Against this background, I enter Judgment in favour of the claimant against the respondent and she is awarded compensatory damages in the sum of Kshs 3,090,656.00 being equivalent to eight (8) months of her gross salary. Interest shall apply on the award at court rates from the date of judgment until payment in full.
70. The claimant shall also have the costs of the suit.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 14TH DAY OF OCTOBER, 2022.

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STELLA RUTTO

JUDGE

Appearance:

For the Claimant Ms. Koko

For the Respondent Mr. Obura

Court Assistant Abdimalik Hussein



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 15th March 2020 and subsequent directions of 21st 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 had 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 *Civil 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.

STELLA RUTTO

JUDGE

