



**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT OF KENYA AT NAKURU**

**PETITION NO. 14 OF 2019**

**(FORMERLY NAIROBI PETITION NUMBER 160 OF 2019)**

**BETWEEN**

**HON. ROSE ESTHER MUTHONI WAMUIYA.....1<sup>ST</sup> PETITIONER**

**HON. FAITH WANJIRU MBUGUA.....2<sup>ND</sup> PETITIONER**

**HON. SIMON MWANGI NGANGA.....3<sup>RD</sup> PETITIONER**

**AND**

**THE HON GOVERNOR,**

**NYANDARUA COUNTY GOVERNMENT.....1<sup>ST</sup> RESPONDENT**

**COUNTY GOVERNMENT OF NYANDARUA.....2<sup>ND</sup> RESPONDENT**

**THE HON. SPEAKER**

**COUNTY ASSEMBLY OF NYANDARUA.....3<sup>RD</sup> RESPONDENT**

**THE COUNTY ASSEMBLY**

**COUNTY GOVERNMENT OF NYANDARUA.....4<sup>TH</sup> RESPONDENT**

**JUDGMENT**

1. The petitioners were at all material times members of Nyandarua County Executive Committee (CECs) serving in the dockets of industrialization, trade and cooperative; education, gender affairs, culture and social services and in the docket of water environment, tourism and natural resources respectively.
2. By a letter dated 16<sup>th</sup> October, 2017 the 1<sup>st</sup> Respondent nominated the Petitioners in line with Article 179 of the Constitution and subsequently they were vetted by the county assembly between 30<sup>th</sup> and 31<sup>st</sup> October, 2017 and finally appointed to serve in the dockets mentioned above, each earning a gross salary of Kshs. 284,373/-.
3. That they served the county government of Nyandarua faithfully and diligently to the best of their Knowledge and abilities and conducted themselves in a professional manner while discharging their duties.
4. It is stated that on the wee hours of the 21<sup>st</sup> August, 2019, the 1<sup>st</sup> Respondent released a press release summarily terminating the employment of the petitioner without giving reasons for the said termination or according them hearing as dictated by the rules of natural justice.
5. They stated that to date no communication came their way with regards to their termination save for a letter reference NYA/CNT.GVT/ADM/1/21 dated 22<sup>nd</sup> August 2019 directing them to hand over to the acting CECs who had been appointed to act in their positions.

6. The petitioners contend that their dismissal was premeditated, actuated by malice in the way they were fired in that the 1<sup>st</sup> Respondent chose to fire them through social media and dent their names thus interfering with their career progression and their character is now immersed in a cloud of suspicion.

7. They stated that their rights under the constitution were violated when the Respondent failed to subject them to a disciplinary process and or give reasons for their termination as envisaged under section 41 and 45 of the Employment Act and reinforced under Article 236 of the Constitution of Kenya.

8. It was contended that section 40 of the County Government Act provides for a procedure in which a CECs may be removed which procedure was never followed by the Respondent.

9. They stated that their dismissal from employment exposed them to financial suffering and hardships in violation of their right under Article 27 of the Constitution and Article 43 of the Constitution as their right to economic and social freedom was violated since they had all secured mortgage facilities on strength that they would serve for at least 5 years till the end of the term of the sitting Governor.

10. The Petitioners thus prayed for Judgment against the Respondents for;-

**a) A declaration be and is hereby issued that the 1 Respondents termination of the Petitioner's employment was unconstitutional, unfairly and illegally terminated by the Respondents contrary to section 46 of the Employments Act, section 40 the County Government Act, section 4 of the Fair Administrative Action Act as read with Article 47 and 236 of the Constitution.**

**b) A declaration be and is hereby issued that Respondent's failure to follow the mandatory statutory procedure for the removal of the Petitioners as Nyandarua County Executive Members was a violation of Article 236 of the Constitution and the Petitioners rights under Article 27, 43, 47 and 50 of the Constitution of Kenya.**

**c) General damages for violation of the Petitioners/Claimant's Constitutional rights at Kshs. 70,000,000/-.**

**d) Kshs. 16,000,000 for loss of income and for salary due to the unjustified and premature removal from office of the Petitioner,**

**e) Any other order and/or relief that this Honourable Court may deem just and fit to grant and/or may be necessary to meet the end of justice,**

**f) Costs of this suit.**

11. In response to the Petition the 1<sup>st</sup> and 2<sup>nd</sup> Respondent filed an answer to the Petition dated 30<sup>th</sup> June 2021 on 1<sup>st</sup> July, 2021. The respondent herein stated that the petitioners' reliance on the employment Act is misplaced as the Petitioner who were County Executive Committee members are state officers by dint of Article 260 of the Constitution who are not governed by the Employment Act.

12. It is stated that section 31(a) of the County Government Act, 2012 empowers the Governor to dismiss any CECs unilaterally if he deems fit or necessary to do so. Accordingly, it was stated that the governor's need to re-invigorate his cabinet and achieve his objective necessitated the firing of the petitioners. In any case the said petitioners were serving at the pleasure of the Governor therefore the allegation of unfair termination cannot arise.

13. It was stated that the concept of due process pleaded by the petitioners does not apply in situations where the employee works under the pleasure doctrine therefore the issue of violation of their rights cannot arise. Further that the Petitioners have not pleaded with precision how the said rights under Articles 41, 47, 50 and 236 were violated.

14. The Respondents stated that Article 236 seeks to strengthen the protection accorded to public officers against arbitrary removal and not to limit the prerogative of the governor against firing his appointees who work under his pleasure.

15. It was stated further that CECs are Governor's right hand men and women who must win the confidence of the Governor failure to which the governor is at liberty to terminate their service.

16. The 3<sup>rd</sup> and 4<sup>th</sup> Respondent filed a response to the Petition dated 26<sup>th</sup> July, 2021 on the 28<sup>th</sup> July, 2021. In the Response the Respondents stated that they were not aware that the petitioners were fired neither were they aware of any press release dismissing the petitioners.

17. They contended that they were not consulted before the Petitioners were terminated from employment or the press release thereof and only learned of the termination together with other public members through the press release issued on 20<sup>th</sup> August, 2019.

18. The Respondents stated that there was no reason given for the termination neither was there any resolution arrived at in accordance with section 40 as read with section 31(a) of the County Government Act.

19. The Respondent herein absolved themselves from any wrongdoing in the entire process of dismissing the Petitioners and alleged that they have been wrongly joined in this Proceedings and prayed that the petition be dismissed as against the 3<sup>rd</sup> and 4<sup>th</sup> Respondents.

20. The Respondents also stated that Petition has been overtaken by events as the County Government of Nyandarua had already filled the position previously held by the Petitioners herein.

21. The Petitioners filed answer to the 1<sup>st</sup> and 2<sup>nd</sup> Respondents' response to Petition and reiterated the contents of their petition and in addition stated that the 1<sup>st</sup> Respondent did not give any reason for the dismissal and the claim by the Respondents that they were dismissed on poor performance is a lie.

22. The Petition was dispensed by written submission with the 1<sup>st</sup> and 2<sup>nd</sup> Petitioners filling on the 22<sup>nd</sup> July, 2021, the 3<sup>rd</sup> and 4<sup>th</sup> Respondents on the 28<sup>th</sup> July, 2021 and the 3<sup>rd</sup> Petitioner on the 3<sup>rd</sup> August, 2021 while the 1<sup>st</sup> and 2<sup>nd</sup> Respondents filed their dated 4<sup>th</sup> August, 2021.

### **1<sup>st</sup> 2<sup>nd</sup> and 3<sup>rd</sup> Petitioners' Submissions.**

23. The Petitioners submitted that as much as the pleasure doctrine is provided for under section 31(a) of the County Government Act, Article 41, 47, 50 and 236 of the Constitution provides for the rights of the petitioners which cannot be overruled since the Constitution is the supreme Law of Kenya and all other laws need to conform with it. It was argued that the former constituted had embraced the pleasure doctrine under Article 24 and 25 however the Constitution of Kenya 2010 does not envision the pleasure doctrine and was infact eliminated under Article 236 of the Constitution. they reinforced their argument by citing the Court of Appeal case of **Narok County Government & Another –v- Richard Bwogo Birir and another [2015] eKLR** where the Court held that;

**“We obviously respect the decision of our sister bench to the extent that the original doctrine has been severely restricted over time, and that the current *Constitution* took away the notion that sovereign power was vested in individuals or certain offices and could be exercised at the will of the said individual or office. However, we respectfully differ with the finding that the pleasure doctrine has been preserved under Section 31 (a) of the County Governments Act. We think for ourselves that the construction of the section must be made in the right context. As was stated by the Supreme Court of Canada in *David Dunsmuir –vs- New Brunswick (2008) 1 S.C.R 190:-***

**“The interpretation of the law is always contextual. The law does not operate in a vacuum. The adjudicator was required to take into account the legal context in which he was to apply the law.”**

**Firstly, it is significant, and there was a good reason for it, that the provisions of Sections 24 and 25 of the retired *Constitution* were not imported into the current *Constitution*. The pleasure doctrine also receives no express mention in the current *Constitution*.”**

24. The Petitioners further submitted that the powers given to the president of hiring and firing cabinet secretaries is not similar to the powers given to the Governor with regards to the CECs as the Governor is mandated under the County Government Act to give reason for sacking any CECs. In this they cited the Court of Appeal case of **County Government of Garissa and another –v- Idriss Aden Mukhtar & 2 others [2020] eKLR** where the Court largely dealt with the issue of pleasure doctrine and held that section 31 (a) of the County Government Act does not give the governor powers to dismiss his CECs without subjecting them to due process.

25. The Court further held that;

**“[39] It is for these reasons that we reiterate this Court’s holding in the Richard Bwogo Birir decision, that the pleasure doctrine was not preserved under Section 31(a) of the CGA. Nor do we agree that the section allows the Governor to dismiss members of the county executive without observing any procedures or assigning any reasons. Section 31(a) merely gives the Governor the discretion to dismiss a county executive member for a reason and process other than that stated in Section 40 of the CGA, subject to due process being followed.**

**[41] This means that there must be reasons upon which it can be concluded that the powers of the Governor have been exercised in good faith and for proper reasons and not arbitrarily or capriciously. It cannot be as the appellants appear to contend, that the Governor is entitled to fire the respondents at will without any reason and without due process. That would be contrary to the respondents’ constitutional rights to fair labour practices and the right to fair hearing. Thus, the appellants had to satisfy the court not only that the Governor had a good reason for the termination of the respondents’ employment, but also that the reason for the termination was one which justified urgent action under Section 31(a) of the CGA. Secondly, the Governor had to satisfy the court that in taking the action, due process was followed and a fair hearing given to the respondents.**

**[50] In our view, the Governor misinterpreted his powers under Section 31(a) of the CGA, as giving him a free hand to dismiss the respondents at his pleasure, and therefore did not give them any hearing before termination of their employment. This was a clear breach of the respondents’ rights to fair labour practices under Article 41(2) of the Constitution and right to fair administrative action under Article 47 of the Constitution. It was also a breach of natural justice and therefore, the respondents’ dismissal was unfair termination.”**

26. On whether the Employment Act applies to the County Executive Committee Members, the Petitioners submitted that the Employment Act is the primary legislation that governs all employee in Kenya and any other law that addresses labour relations must be read together with the Employment Act. The petitioners cited the case of **County Government of Garissa and another –v- Idriss Aden Mukhtar(Supra)** where the Court held that;

**“[54] Section 3 of the Employment Act is clear that other than the categories stated therein, the Employment Act applies to all employees employed under a contract of service and provides minimum terms and conditions of employment. Therefore, although the employment of state officers is regulated by the Constitution and relevant statutes, the Employment Act applies to them and they are entitled to rights under the Employment Act, unless the Constitution, or the relevant statute, or their contract of service provide better terms. Given the relationship between the appellants and the respondents, and the matter having been filed in the Employment & Labour Relations Court, we find nothing wrong with the learned Judge being guided by Section 49(1) of the Employment Act in awarding damages.”**

27. Accordingly, the petitioner submitted that the Employment Act applies to the Petitioner herein and therefore the argument by the Respondents is without any basis in law.

28. On whether the Petitioners were accorded due process, it was submitted that the Petitioners were sacked from employment without subjecting them to due process as provided for under the law. It was argued that the Respondents in their response to petition affirmed that indeed they did not subject the petitioners to due process in the strength of the pleasure doctrine that can be exercised by the Governor at will which doctrine had been demystified by the Courts.

29. In conclusion the Petitioners submitted that they have proved their case to the required standard and prayed that the petition be allowed as prayed.

### **3<sup>rd</sup> and 4<sup>th</sup> Respondents Submissions**

30. The respondent herein submitted that they were not involved in the alleged termination of the Petitioners employment therefore ought to be absolved from any responsibility on the termination. They argued that no process was carried out in the said termination and that they together with members of the public learnt of the dismissal through the press release by the 1<sup>st</sup> Respondent.

31. They submitted that in the circumstances they are not necessary parties in this suit and urged this Court to strike out the Petition as against them.

32. Additionally, it was argued that the 1<sup>st</sup> and 2<sup>nd</sup> Respondent has already filled the positions previously held by the Petitioners therefore the Petition has been overtaken by events. In this they cited the case of **Fredrick Karisa Shungu & 3 others –v- Geoffrey Gidyo Dida [2012] eKLR** and prayed that the petition be dismissed.

### **The 1<sup>st</sup> and 2<sup>nd</sup> Respondents Submissions.**

33. The Respondents herein maintained that the Employment Act does not apply to the Petitioners, them being state officer within the meaning of Article 260 of the Constitution of Kenya 2010 therefore that they erred in applying the Employment Act. To reinforce this, they cited the case of **County Government of Nyeri and Another –v- Cecilia Wangechi Ndungu [2015] eKLR** where the Court held that; -

**“...We are of the considered view that the Employment Act does not apply to State Officers. A State Officer’s terms and conditions of service are regulated by the Constitution or the relevant Statute, principles of fair administrative action and rules of natural justice. It therefore follows that a member of the County Executive Committee being a State Officer is not subject to the provisions of the Employment Act.”**

34. On whether the termination of the Petitioners employment was unlawful, the Respondents submitted that the Petitioners were dismissed fairly and for valid reason. It was argued that as much as section 40 of the County Government Act provides for the dismissal of a CECs and the procedure thereof, section 31(a) of the same Act gives the Governor wide discretion to dismiss the CEC on his motion or initiate when he deems appropriate to do so. In this they cited the case of **Nyeri and Another –v- Cecilia Wangechi Ndungu(Supra)** where Court held that;-

**“...Section 31 (a) of the County Governments Act does not require the Governor to hold a disciplinary hearing in respect of the said member before dismissal; he can only dismiss if he considers it appropriate or necessary. Appropriateness or necessity is not arbitrariness or whimsical. Appropriateness or necessity imports the requirement that there must be reasons that make the dismissal appropriate or necessary. It is these reasons that determine whether the discretionary power exercised under Section 31(a) of the County Governments Act is reasonable or not.”**

35. For that reason, they submitted that the Petitioners were dismissed lawfully on the basis of poor performance and for the governor to invigorate his cabinet.

36. They argued also that the petitioner have failed to plead with precision how their rights have been violated and that their dismissal from work does not necessary boil down to the violation of their rights. They argued that the petitioners are not entitled to the claim made on compensation or otherwise and cited the case of **Kalpna H. Rawal –v- Judicial Service Commission & 3 others [ 2016] eKLR** and prayed for the petition to be dismissed.

37. I have examined the averments of the parties herein. The issues for this court’s determination are as follows;

#### **1. Whether Employment Act 2007 applies to the petitioner.**

2. Whether the petitioners were subjected to fair administrative action before being terminated.

3. Whether the petitioner's rights under the constitution were breached by the 1<sup>st</sup> respondent in terminating the petitioners.

4. Whether the petitioners are entitled to the remedies sought.

1. Employment Act 2007

38. The respondents have submitted that the provision of the Employment Act 2007 do not apply to the petitioners herein because they are State officers.

39. The respondents cited **County Government of Nyeri & another VS Cecilia Wangechi Ndungu** where the Court of Appeal held that the Employment Act 2007 does not apply to State officers.

40. The Court of Appeal in this case stated as follows:-

***“We are of the considered view that the employment Act does not apply to State Officers. A State officer terms and conditions of service are regulated by the Constitution or the relevant statute, principles of fair administrative action and rules of natural justice. It therefore follows that a member of the County Executive Committee being a State officer is not subject to the provision of the Employment Act”.***

41. That being the position, as stated by the JJA, Visram Koome (as she then was) and Odek, I take it as the law and will in the circumstances bear the said principle in mind.

2. Fair Administrative Action

42. The petitioners have submitted that there were no valid reasons to warrant their being terminated and neither were they given an opportunity to defend themselves.

43. The respondents on this issue submitted that the petitioners were terminated under Section 31(a) of the County Government Act which empowers the Governor to dismiss any CEC and unilaterally if he deems fit or necessary to do so.

44. The petitioners submitted that they learnt of their termination from social media.

45. They have however exhibited APP PE4 – Page 60 of their petition which is a press release on appointment of new CEC members and advisors.

46. The communication indicated that the Governor had made the changes of the CEC members in order to reinvigorate his transformation agenda through injection of new strategic competences for optimal performance and accountability of the citizenry.

47. The respondents have submitted that the concept of due process or fair administrative actions does not apply in situations where the employee works under the pleasure doctrine and therefore the issue of violation of their rights does not arise.

48. They submitted that CECs are the 1<sup>st</sup> respondents right hand men and women and must have the confidence of the governor failure of which the governor is at liberty to terminate their services.

49. The petitioners in their submissions argued that the pleasure doctrine does not apply to them.

50. It is indeed true that the petitioners were terminated under Article 31(a) of the County Government Act which states as follows:-

**31. The governor—**

***(a) may, despite section 40, dismiss a county executive committee member at any time, if the governor considers that it is appropriate or necessary to do so;***

***(b) shall dismiss a county executive committee member, if required to do so by a resolution of the county assembly as provided under section 40;***

***(c) may appoint an accounting officer for each department, entity or decentralized unit of the county government; and***

***(d) shall have such powers as may be necessary for the execution of the duties of the office of governor.***

51. Indeed under the law the Governor may terminate the services of any CEC member if necessary or appropriate.

52. The Court of Appeal in discussing the application of Section 31(a) of the County Government Act in **Narok County Vs Richard Bwogo Birir** stated as follows:-

**“Section 31(a) of the County Government Act which provides for dismissal of an ECM by the Governor at any time does not just stop at dismissal. It qualifies the dismissal to one that is ‘necessary or appropriate’ and even then after “consideration” by the Governor”.**

53. The Supreme Court in Hassan Ali Joho & Another vs Suleiman Said Shabbal – Pet 10 of 2013 held that whenever a court is called upon to interpret an Act of Parliament, it shall ensure that the Act conforms to the constitution. The use of the words ‘consider, if necessary and appropriate’ have a significant bearing in ascertaining the legislation intention in enacting the section in question.

54. Viscount Simon in Hill VS William Hill (Park Lane) Ltd (1949) AC 530 at page 546 stated as follows:-

**“When the Legislature enacts a particular phrase in a statute, the presumption is that it is saying something which has not been said immediately before.**

**The rule that a meaning should if possible be given to every word in the statute implies that, unless there is good reason to the contrary, the words add something which had not been said immediately before.”**

55. The court further stated as follows in the Narok County vs Richard Bwogo Birir (Supra):-

**“To consider ..... to the Macmillan Dictionary is to think about something carefully before making a decision or developing an opinion. In our view, the use of the word ‘consider’ connotes that a Governor in exercising his powers under Governor that section should take into account a ground or allegation against a member of the County Executive Committee and any explanation by the said member before making a decision..”**

56. The above principle was further expounded in the County Government of Nyeri & Another VS Cecilia Wangechi Ndungu as follows:-

**“33..... The current constitution explicitly states that sovereign power belongs to the people and the exercise of the said power ought to be in accordance with the constitution. The constitution took away the notion that sovereign power was vested in individuals or certain offices and could be exercised at the will of the said individual or office.**

**The preamble to the constitution provides that in adopting and enacting the constitution the people of Kenya recognize the aspirations of all Kenyans for a government based on the essential values of human rights, freedom democracy, social justice and the Rule of Law.**

**The Kenyan people exercised their sovereign and inalienable right to determine the form of governance of the country.....”**

57. My reading of what the learned JJA stated in the Cecilia Wangechi case is that the Governor has no power under the current constitution to make a decision at will.

58. Section 41 of the County Government Act also envisages another mode through which the Governor could remove a MCE and what is envisaged is through a transparent process where the CEC member is given an opportunity to be heard.

59. Whereas the 1<sup>st</sup> respondent herein didn’t take that route, the law envisages that there must be due consideration of reasons for which he seeks to remove a CEC member.

60. There must be valid and necessary reasons placed under consideration by the Governor. At paragraph 39 of the Cecilia Wangechi Case, the learned JJA further stated as follows;

**“Further by virtue of the fact that a Governor ought to exercise his powers for the public good, he should not act on selfish motives but for the benefit of his/her county. We find that the reason for exercising the said power ought to be valid and compelling and will depend on the circumstances of each case”.**

61. Consequently, the reason to dismiss a member of the county executive is qualified to the extent that the same ought to be for the benefit of the county and in accordance to the principles of devolution as set out herein above.

62. In the current case the 1<sup>st</sup> respondent indicated in the press conference that he was terminating the petitioners in order to reorganize the county for better results in his transformation agenda.

63. I believe that the Governor had to assign valid reasons and follow some due procedure before terminating the services of the petitioner.

64. He didn’t do so and in an erroneous preposition assumed that he had the prerogative to terminate services of the petitioners at will.

65. The Court of Appeal in County Government of Garissa & Another VS Idriss Aden Mukhta & 2 others (2020) eKLR held that;

**“It is for the reason that we reiterate this court holding in the Richard Bwogo Birir decision, that the pleasure doctrine was not**

**preserved under Section 31(a) of the County Government Act – County Governments Act. Nor do we agree that the Section allows the Governor to dismiss members of the County Executive without observing any procedures or assigning any reasons. Section 31(a) merely gives the Governor the discretion to dismiss a county executive member for a reason and process other than that stated in Section 40 of the County Government Act, subject to due process being followed.”**

66. Indeed the respondents didn't accord the petitioners due process and the 3<sup>rd</sup> and 4<sup>th</sup> respondents who should as of necessity been involved were never notified of any reasons or process adopted before the removal of the petitioners.

67. The 3<sup>rd</sup> & 4<sup>th</sup> respondents however submitted that this petition has been overtaken by events as the issues in this petition were addressed by the Honourable court on 9<sup>th</sup> of October 2019 wherein it vacated all interim orders issued by Hon. Byram Ongaya and further granting the 1<sup>st</sup> & 2<sup>nd</sup> respondents a go ahead to replace the petitioners as members of the CEC.

68. Indeed on 9/10/2019 this court granted orders vacating interim orders issued by J. Ongaya which orders were to retain the petitioners in office as public servants.

69. The said orders in my view had not reversed the illegality committed but the respondents considered them to be a dismissal. The court did not consider the process before the termination and therefore didn't sanitize the 1<sup>st</sup> respondent's action.

70. It is my finding that the petitioners were indeed treated unfairly as they were terminated without being subjected to a fair administrative process as enumerated above.

### 3. Breach of Constitutional rights

71. From (2) above it is apparent that the petitioners were condemned unheard and the provision of the Fair Administrative Action Act were not adhered to. This implies that the provision of Article 47 of the Constitution were flouted.

72. The 1<sup>st</sup> respondent also flouted the provision of Article 50 of the constitution which provides that one should be subjected to a fair, expedient and transparent process before being condemned. The petitioners were never subjected to any fair process as envisaged.

73. The petitioners also submitted that their rights under Article 236 of the Constitution was breached. Article 236 of the Constitution provides as follows;-

#### **236. Protection of public officers**

**A public officer shall not be—**

**(a) victimised or discriminated against for having performed the functions of office in accordance with this Constitution or any other law; or**

**(b) dismissed, removed from office, demoted in rank or otherwise subjected to disciplinary action without due process of law.**

74. Indeed the petitioner being public officers could not be removed from office without due process of law. It is therefore true that the petitioners rights under Article 41 and 236 of the Constitution were breached.

### 4. Remedies

**1. Given that the career of the petitioners was cut short when they had a reasonable expectation to serve the respondents for 5 years, I therefore award each of the petitioner's compensation equivalent to 12 months' salary for the unfair and unlawful termination.**

**= 12 x 285,373 = 3,428,844/=**

**2. I also find for the petitioners and order the 1<sup>st</sup> & 2<sup>nd</sup> respondents to pay them general damages for breach and violation of their constitutional rights equivalent to 5 Million each.**

**3. Each petitioner is thus entitled to gross payment of kshs.8,428,844/= less statutory deductions.**

**4. The 1<sup>st</sup> & 2<sup>nd</sup> respondents to pay costs of this suit plus interest at court rates with effect from the date of this Judgment.**

**DATED AND DELIVERED VIRTUALLY THIS 12<sup>TH</sup> DAY OF OCTOBER, 2021.**

**HON. LADY JUSTICE HELLEN WASILWA**

**JUDGE**

**In the presence of:**

Wachira for 3<sup>rd</sup> petitioner – present

Ateka for 1<sup>st</sup> & 2<sup>nd</sup> petitioners – present

Mwangi for 3<sup>rd</sup> & 4<sup>th</sup> Respondents

Court Assistant - Fred