



REPUBLIC OF KENYA

EMPLOYMENT AND LABOUR RELATIONS COURT AT KERICHO

PETITION NO. E004 OF 2021

BARNABAS K. NGENO.....PETITIONER

VERSUS

THE COUNTY ASSEMBLY OF KERICHO.....1ST RESPONDENT

SPEAKER COUNTY ASSEMBLY

OF KERICHO.....2ND RESPONDENT

JUDGMENT

1. The Petition herein seeks the following reliefs:-

- a) A declaration that within the intendment of article 10 of the constitution, the Respondents are bound by the key national values and principles to wit, the rule of law
- b) A declaration that within the intendment of article 236 of the constitution, the respondent cannot victimize and impeach the petitioner without the due process of law.
- c) A declaration that within the intendment of Article 50 (1) & (2) (b) of the constitution, a person facing impeachment proceedings under section 40 of the County Government Act 2012 is entitled to be informed the grounds of the impeachment before the commencement of the impeachment proceedings by the select committee.
- d) A declaration that the impeachment proceedings against the petitioner commenced by Gazette Notice no 495 of 2021 and a letter dated 26th January 2021 is contrary to the standing orders and the motion of the majority leader to form a select committee approved by the County Assembly of Kericho on 22nd January 2021 are a nullity contrary to article 50 (1) of the constitution.
- e) An order of Certiorari to remove into this court and quash the decision of the County Assembly of Kericho commenced vide a Gazette Notice No 495 of 2021 and letter dated 26th January 2021 to form a select committee on 22nd January 2021 to investigate the conduct of the Petitioner without outlining the scope of the investigations
- f) An order of Permanent Injunction be issued to stop the Respondents from initiating any impeachment proceedings against the Petitioner solely based on the decision of the county Government of Kericho to reconstitute the Municipal Boards made while pursuant to the provisions of urban Areas and Cities (Amendment) Act No 3 of 2019 and reinforced through the interpretation of the Court in **Kericho ELRC Petition no. 6 of 2019. Mogerer Langat & Another versus Governor, Kericho County Government & 2 others**

FACTUAL BACKGROUND

2. In 2019, parliament amended the Urban Areas and Cities Act (UACA) 2011 thus changing the qualification of members and the composition of Board members under section 14 of the initial Act. The amendment was followed by an advisory from the Attorney General detailing the consequences of the new law on the existing Urban Boards. According to the Advisory all existing boards at that time had to be reconstituted in compliance with the amended Act as they had been rendered illegal by operation of the law.

3. As a result of the said development the 2nd petitioner embarked on the exercise of reconstituting both Kericho and Litein municipal boards as a matter of urgency in order to comply with the law. However, that did not sit well with two members of Kericho Municipal Board who filed a case in court being **Petition No. 6 of 2019, Magerer Langat and another –vs Government Kericho County and 2 other** challenging the reconstitution of the Board but the Petition was dismissed and the exercise continued until November 2020 when it was

completed.

4. The list of the Board Members was approved by the County Executive Committee on 6.1.2021 and the reports were forwarded to the County Assembly vide the letter dated 11/1/2021. The two new Boards were launched on 19/1/2021 where the Chief Officer responsible for Urban areas took oath as substantive Board member for the two municipalities, two senior public officers from the department responsible for Urban areas took oath of secrecy and signed the code of ethics to represent the 2ND Petitioner in the Municipal Boards, all members who had been retained from the former Boards did not take fresh Oath as they had already been sworn in, but all the new nominees, who required vetting and approval by the County assembly, did not participate in the ceremony of 19/1/2021.

5. According to the Petitioners, the Chief Officer, the two senior Public Officers from the Urban Areas department and the members of former Board who were retained did not require vetting and approval by County Assembly before taking Office. However, the respondents were of a contrary view and deemed the petitioners' action as gross misconduct and breach of the law.

6. As a result of the foregoing matters, the 2nd Respondent published in the Kenya Gazette, a notice of special sitting of the County Assembly on 22.1.2021 to discuss four Agenda including the motion for formation of a select committee to discuss the 1st petitioner's conduct as the Executive Committee Members in charge of lands, Housing and Physical planning.

7. The motion was approved on the same date and the petitioner was invited to appear before the select committee on 29/1/2021 vide letter dated 26/1/2021. The letter did not enclose the motion, allegations levelled against him or cite the provisions of the Constitution or other law allegedly breached by him. Consequently the petitioner brought the instant petition seeking the orders in paragraph 1 above because the process adopted to impeach him violated section 40 of the County Governments Act.

8. Simultaneously with the petition, he filed Notice of Motion dated 1/2/2021 seeking conservatory orders to suspend the impeachment proceedings and the same was granted after the court got satisfied that the process adopted was flawed.

9. The respondents have denied that the process adopted for impeaching the petitioner is flawed and maintained that it complies with section 40 of the County Governments Act and standing Orders 58 of the County Assembly of Kericho. They further aver that the County Assembly approved the formation of a select committee to investigate the conduct of the petitioner and in observance of the rules of natural justice invited the petitioner before the select committee on 2.2.2021.

10. The respondents further aver that the petitioner requested for copies of the Notice of Motion tabled and approved by the Assembly, details of allegation levelled against him, documents in support, and the particulars of provisions of the Constitution he allegedly violated to facilitate him prepare for appearance before the select committee on 2.2.2021 and the same were availed to him vide the letter dated 27/1/2021 through the office of the County Clerk.

PETITIONERS SUBMISSION

11. The petitioner submitted on two issues namely, whether the respondents violated his right to fair hearing under Article 10, 25 (c), 35, 47, 50 (1) and (2) (b) and 236 of the Constitution; and whether the court should quash the decision of County Assembly to form a select committee on 22.1.2021 to investigate the conduct of the petitioner without outlining the scope of the investigations.

12. On the fair issues, the petitioners urged that the decision to form the select committee to investigate the 1st petitioner violates section 40 (1) of County Government Act and standing order 58 (2) of the county Assembly of Kericho. Section 40(1) sets out the grounds upon which a County Executive member can be impeached and further provides procedure to be followed.

13. Standing Order, on the other hand provides the mandatory and elaborate procedure for instituting a motion for impeachment, formation of a select committee for investigation, and what followed after the finding by the select committee.

14. According to the petitioners, there was no proper motion tabled before the County Assembly for debate and approval on 22/1/2021. They submitted that under the Standing Order 58(2), before a Motion is tabled, the mover must deliver to the clerk the proposed motion in writing and signed by the member and supported by at least one third of all the members. Thereafter, it is submitted to the speaker for approval before taking it before house business committee for time allocation.

15. The petitioners maintained that the said procedure was not followed and therefore no proper motion was presented to the Assembly for debate and approval on 22/1/2021. They contended that it was not procedurally possible to file the motion on 22/1/2021, table it before the Assembly, debate and approve it on the same day.

16. In addition, the petitioners submitted that the committee set out to investigate him on 2.2.202 was 19 members as opposed to section 40(3) of the County Government Act and standing Order 172 that provides for minimum of 5 and maximum of 9 members.

17. They further reiterated that the letter dated 26/1/2021 inviting him to appear before the select committee on 29/1/2021 did not enclose the substantive motion approved by the Assembly and the allegations levelled against him. As a result, the petitioner wrote to the respondents requesting for the approved motion indicating the allegations, terms of reference, documents sporting the allegations and specific sections of the constitution and statutes allegedly violated by him. However, the respondents provided only the notice of motion without specific allegations and terms of reference.

18. The Petitioners submitted that the court can intervene in the process of the County assembly where it has breached the constitution or statute law. For emphasis, they relied on **Advisory Opinion No. 2 of 2013 speaker of the senate and another –vs- the Attorney General and others [2013] e KLR** where the Supreme Court held that courts will intervene in the parliamentary procedures formulated to regulate

internal workings if they breach the constitution.

19. In this case, the petitioners contended that their right to fair administrative action under Article 47 and amplified by section 4 of the fair Administrative Actions Act (FAA) were violated. They sought support from **County Assembly of Kisumu 2 others –vs Kisumu County Assembly service Boards & 7 others [2015] e KLR** where the court of Appeal held that a person charged is entitled to be given written notice containing substantial information with sufficient details to enable him ascertain the nature of the allegations against him and it must allow him sufficient time to interrogate the allegations and seek legal counsel where necessary.

20. In this case, the petitioners contended that the action by the respondent are in breach of the due process of the law and therefore are in violation of Article 236 of the constitution which protects public officer, from removal from office without following the due process of law.

21. As regards the prayer for certiorari to quash the impugned decision, the petitioners submitted that there is a real danger, actual and evident threat to continue misuse of power if the decision of the respondents to form a select committee on 22/1/2021 to investigate the conduct of the petitioner without outlining the scope of the investigation is not quashed.

22. Finally, petitioners submitted that the respondents' decision to investigate the petitioner without outlining the scope of the investigations has violated petitioner rights to fair administrative action by denying them fair opportunity to be heard. They contended that due process was not followed and there exists an eminent threat of abuse of power.

RESPONDENT'S SUBMISSIONS

23. The respondents submitted also on two issues, namely whether the petitioners' right to fair hearing under Article 10, 25(c), 35, 47, 50(1) & (2) and 236, have been violated by them; and whether an order of certiorari should issue to quash the decision of the County Assembly made on 22/1/2021 to form a select committee to investigate the petitioner without outlining the scope of the investigations.

24. On the first issue, the respondents appreciated that the right to fair hearing is a fundamental right enshrined in the constitution and which binds everyone including himself. In support of the above, they cited decision of the court of Appeal for East Africa in **De Sousa –vs Tanga town Councils [1961] EA 377** which set out the ingredients of fair hearing.

25. The Respondents further submitted that as an oversight body on the County Executive, its role is to enhance accountability, enhance rule of law, democracy and ensure appointments to the public service are not done without independent oversight. It contended that section 8(1) (a) of the County Government Act gives the county Assembly the mandate to vet and approve nominees to County Public officers including the nominees to the reconstituted boards.

26. They further submitted that they have another mandate of impeaching County executive member under the procedure set out under section 40 (1) of the County Government Act like in this case. They admitted that a motion for impeachment ought to receive support from at least one third of the members of the County Assembly for a select committee to be formed to investigate the matter.

27. In the present case, the Assembly allegedly approved formation of a select committee to investigate the petitioner in accordance with the standing orders. The respondents observed that the petitioner has admitted that he has no problem appearing before the select committee. The foregoing admission confirms that there is no prejudice whether real or perceived and therefore the petitioner should await to challenge the final decision by the select committee if there is noncompliance with the procedure or if he is dissatisfied with such a decision.

28. The Respondents submitted that the investigation by the committee will be fair as the petitioner will be given the right to appear and be represented during the entire process. They further submitted that on 22/1/2021, Hon Collins Byegon tabled a motion in the floor of the house pursuant to the agenda in the gazette notice. The motion cited the member for violating the law in appointing, approving and swearing into office, new members to municipal Boards on 19/11/2020 before approval by the County Assembly, appointing and swearing into office new members to the Municipal Board before the lapse of term of members serving in the previous Board, appointing his maternal cousin as the Town Manager, and acting in gross violation of the law.

29. The Respondent submitted that the petitioner was invited to appear before the committee on 2/2/2021 and he was, at his request, provided with Order of business of the special sitting on 22/1/2021, the motion tabled and approved by the house; and minutes of the select committee formed. They submitted that the petitioner received sufficient notice to appear before the select committee; that the notice contained details of the allegations of gross violations of law he was charged with; that he indeed appeared before the select committee; and that the select committee fully complied with the law in summoning the petitioner. In their view, they are within the law in the actions undertaken against the petitioner and his fundamental rights are duly protected.

30. In support of the foregoing they relied on the court of Appeal in the **County Assembly of Bungoma & 2 other –vs Stephen Nendela & 2 others [2017] e KLR**. Finally, the respondents urged that the select committee was formed in accordance with the standing orders of the Assembly and opposed the prayer for certiorari to quash the decision to form a select committee to investigate the conduct of the petitioner.

ISSUES FOR DETERMINATION AND ANALYSIS

31. There is no dispute that the 1st respondent has set in motion the process of impeaching the 1st petitioner from office and the petitioners have sought this court's intervention to stop the process and quash the decision that approved the motion for formation of a select committee to investigate the conduct of the 1st petitioner. The issues for determination are: -

a) Whether the petitioners have demonstrated good ground for the court to intervene in the impeachment process.

b) Whether the petitioner is entitled to the reliefs sought.

Intervention in the impeachment process.

32. The impeachment process of a Member of County Executive Committee under section 40 of the County Government Act is regulated by standing orders of the county Assembly and as such, the doctrine of separation of powers protects it from interference from the court. However, courts have held that the said protection is not absolute and it can be interfered with if there is proof that the Constitution or another law has been violated.

33. In **Advisory No. 3 of 2013, Speaker of the Senate & another v the Attorney General and others [2013] e KLR** the Supreme Court observed that: -

“If the parliament violates the procedural requirements of the supreme law of the land, it is for the courts of law, not the least the Supreme Court to assert the authority and supremacy of the Constitution. It would be different if the procedure in question were not constitutionally mandated. This Court would be averse to questioning parliamentary procedures that are formulated by the house to regulate their internal workings as long as the same do not breach the constitution”.

34. The question that arises is whether the impeachment proceedings being undertaken have breached the Constitution, Section 40 of the County Government Act and, or the Standing Orders of the 1st respondent.

35. Petitioners contend that the impeachment process has breached the Constitution by violating, the petitioners’ right to fair administrative action and the right to protection from removal from office without following the due process of the law as envisaged under Article 47 and 236 of the Constitution. They also aver that the proceedings violate section 40 of the CGA because they have not outlined the grounds upon which the select committee is formed to investigate the petitioners and also that the select committee investigating them comprises of 19 members while section 40 of the County Government Act provides for only 5 members.

36. Besides, the petitioners aver that the proceedings violate the standing orders because there was no proper motion tabled in the house as required by the standing orders. They contend that the motion presented was not signed by the mover and one third of the member of the County Assembly. They insist that the whole process from service of the Notice of Motion on the Clerk, and the approval by the house took place on the same day, and there was no evidence that the Speaker gave formal approval to the motion as required by the Standing Orders.

37. Finally, they maintained that the letter summoning him to appear before the select committee did not enclose the substantive motion tabled and approved by the house on 22/1/2021, the allegations levelled against the petitioner and the supporting documents, and the provisions of the constitution or statutes allegedly violated by the petitioner. Consequently, the petitioners insist that the process adopted by the respondents to impeach him is flawed and dangerous as it violates his constitutional right to fair administrative action by denying him a fair opportunity to be heard, and right to due process before impeachment.

38. The respondents are however of a different view and submitted that the decision of 22.1.2021 to form the select committee to investigate the conduct of the Petitioner was arrived in accordance with section 40 of County Government Act and Standing Order 58 of the County Assembly. They further aver that the Petitioner was accorded an opportunity to appear before the select committee and he in fact appeared on 2.2.2021. They further aver that on 27.1.2021, the petitioner requested for, and he was on the same day supplied with the Motion approved by the Assembly, allegations levelled against him, and the supporting documents before appearing at the select committee on 2.2.2021.

39. I have carefully considered the submissions by both sides. Section 40 of the County Government Act provides as follows:-

“Removal of member of executive committee

1) Subject to subsection (2), the Governor may remove a member of the county executive committee from office on any of the following grounds-

a) incompetence,

b) abuse of office,

c) gross misconduct;

d) failure, without reasonable excuse or written authority of the governor, to attend three consecutive meetings of the county executive committee;

e) physical or mental incapacity rendering the executive committee member incapable of performing the duties of that office; or

f) gross violation of the constitution or any other law.

(2) A member of the county assembly, supported by at least one-third of all the members of the County Assembly, may propose a motion requiring the governor to dismiss a county executive committee member on any of the grounds set out in subsection (1).

(3) If a motion under subsection (2) is supported by at least one-third of the members of the count assembly-

(a) the county assembly shall appoint a select committee comprising five of its members to investigate the matter; and

(b) the select committee shall report, within ten days, to the count assembly whether it finds the allegations against the count executive committee member to be substantiated.

(4) The county executive committee member has the right to appear and be represented before the select committee during its investigations.

(5) If the select committee reports that it finds the allegations-

(a) Unsubstantiated, no further proceedings shall be taken; or

(b) Substantiated, the county assembly shall vote whether to approve the resolution requiring the count executive committee member to be dismissed

(6) If a resolution under sub section (5) (b) is supported by a majority of the members of the county assembly-

(a) the speaker of the county assembly shall promptly deliver the resolution to the governor; and

(b) the governor shall dismiss the county executive committee member.

40. In view of the provisions of Section 40 of the County Government Act, it is clear that a member of count executive can only be removed from office for any of the 7 grounds set out in subsection(1) including incompetence, abuse of office, gross misconduct, failure to attend meetings of the count executive without permission from the Governor, physical or mental incapacity, or gross violation of the Constitution or any other law.

41. Subsection (2) then sets out the requirements of a motion proposing impeachment of a member of county executive, that is to say, the motion must be brought by a member of the County Assembly supported by at least one third of all the members of the county Assembly, and the removal is for any of the grounds set out in subsection (1) meaning that the ground for removal must be stated in the motion.

42. The respondents have not filed as an exhibit the motion tabled before the house and approved on 22/1/2021. The motion was also not provided to the petitioner when he requested for the same vide his letter dated 27/1/2021. The respondents have only filed the Notice of Motion dated 22/1/2021, which was signed by the mover alone. It was not supported by at least one third of the members of the County Assembly. If there was, nothing would have been easier than to avail to the petitioner on 27.1.2021 or this Court as an exhibit, a list or a schedule of the supporting members with their corresponding signatures appended.

43. The nuts, bolts and spanners for impeachment process under section 40 of the CGA are prescribed by the Standing order 76 of the 1st respondent mandatory in terms. First, before giving notice of motion, the member of the Assembly must deliver to the Clerk a copy of the proposed motion in writing stating the grounds and particulars upon which the proposal is made for removal of the member of the executive committee on any of the grounds set out under section 40(1) of the County Government Act. The notice of motion must be signed by the mover and the clerk must submit to the Speakers for approval.

44. Second, if the Speaker gives approval to the motion, the mover must give 3 days' notice calling for dismissal of the member of the county executive committee by the Governor. Third, after the expiry of the 3 days' notice, the motion shall be placed on the order paper and must be disposed of within 3 days. Under Standing Order 76(4) the Speaker is required in mandatory terms not to allow the mover from moving the motion if at least one quarter of the assembly members have not signed in support of the motion, at least one hour before the sitting of the Assembly.

45. It is important to copy Standing Order 76(4) herein verbatim for emphasis, thus: -

“When the Order for the Motion is read, the speaker shall refuse to allow the member to move the motion, unless the Speaker is satisfied that the member is supported by at least one quarter of all the members of the assembly to move the motion. Provided that within the seven days’ notice, the Clerk shall cause to be prepared and deposited in his office a list of all members of the Assembly with an open space against each name for purposes of appending signatures, which list shall be entitled “SIGNATURES IN SUPPORT OF A MOTION FOR REMOVAL OF Mr/Mrs/Ms..... MEMBER OF COUNTY EXECUTIVE COMMITTEE”

Provided further that the mover shall provide to the Speaker, at least one hour before the sitting of the Assembly, a list signed by members in support of the motion”

46. In this case, I am satisfied that the mandatory provisions of the Standing Order 76 were not followed and consequently, there was no competent motion tabled before, and approved by the 1st Respondent. First, the time taken to serve a copy of the proposed motion to the Clerk and the approval by the Assembly was not in consonance with the mandatory procedure set out by Standing Order 76(1) –(3) which should be in excess of three days. In this case, the whole process took place in one day.

47. Secondly, the motion tabled before the Assembly for approval was not supported by at least one quarter of the members of the 1st respondent and was tabled before service of 3 days' notice calling for dismissal of the petitioner by the Governor understanding order 76(2) and (4).

48. It is my considered view that, were the motion is wanting both in form and procedure, it cannot be proper and competent but rather null and void *ab initio*. Nothing positive can come from nothing. It cannot be a basis for a fair outcome or due process. It cannot yield any fair administrative action. It remains a flawed process that is potentially dangerous and prejudicial to the person subjected to it by the omnipotent County Assembly. Consequently, the petitioner is entitled to challenge the whole process because it was initiated in contravention of the enabling statutory provision and the standing orders of the County Assembly.

49. In addition to the foregoing, the court also notes that procedure followed after the impugned approval to set up the select committee was also flawed. Although, the petitioner was invited to appear before the select committee vide the letter dated 26/1/2021, he was not served with the motion tabled and approved by the Assembly on 22/1/2021, the allegations levelled against him and the specific provision of the law or statute allegedly violated by him.

50. Article 47 of the constitution provides for the right to fair administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair. The said right is amplified by section 4 of the FAA Act which provides in mandatory terms that the administrator must give the person affected by the decision "prior and adequate notice of the nature and reason for the proposed administrative action."

51. The court of Appeal in the case of **County Assembly of Kisumu & 2 others- v- Kisumu County Assembly Services Board and 7 others {2015} e KLR** held that –

“The person charged is entitled to what, in legal parlance is referred to as the right to “Notice and hearing”. That means he must be given written notice which must contain substantial information with sufficient details to enable him ascertain the nature of the allegations against him. The notice must also allow sufficient time to interrogate the allegations and seek legal counsel where necessary.”

52. It would appear from the facts of this case that the petitioner's right to fair administrative action was breached by being invited to appear before the select committee to defend himself from allegations he did not know in advance and without any outlined scope.

53. I cannot end this part without observing that, the basis for the impeachment process is the reconstitution of the Kericho and Litein Municipal Boards. The court notes from the material presented by the parties that the reconstitution was not done at the whims of the petitioners but pursuant to the change of the law vide the Urban and Cities (Amendment) Act No 3 of 2019.

54. The court in **Petition 6 of 2019 Magerer Lagat & another v Governor, Kericho County Government & 2 others** held that the reconstitution of the said Boards was lawful and therefore I find that the 1st respondent had no legal basis for seeking to impeach the petitioner for the reconstitution of the Boards before the term of the earlier Board had lapsed.

55. In addition the petitioner alone cannot complete the exercise of reinstating the Boards without approval by the Executive Committee. The respondents have not rebutted what the petitioner alluded to in his petition that the report of the reconstitution was presented to, and received approval by the County Executive Committee on 6.1.2019 before being forwarded to the County Assembly vide the letter dated 11.1.2019. Isolating the petitioner from the Executive Committee to be the subject of impeachment based on the process of reconstituting the two Boards can only be an act of malice and victimization to say the least. He is being treated as the sacrificial lamb for collective action taken by the Executive Committee including the Governor.

56. Having considered all the findings and observations made herein above, it is also clear that the respondents have embarked in a process of victimizing and removing the petitioner from office without following the due process of the law contrary to Article 236 of the Constitution. Consequently, I hold that the petitioner has established sufficient basis upon which the court can intervene in the impugned impeachment proceedings by the 1st respondent.

Whether the petitioner is entitled to the reliefs sought.

57. It is now trite law that courts will only intervene in internal disciplinary processes to put them back to the procedural rails and not to stop the same altogether. In this case, I have already made a finding of fact and the law that there was never proper motion tabled before and approved by the 1st respondent. The incompetence of motion was due to want of form and breach of express provisions of section 40 and standing order 76 of the 1st respondent which prescribes a mandatory procedure for impeachment of a Member of County Executive Committee.

58. The result of the said violations is that the whole process is fatally incompetent and void *ab initio*. Consequently, I proceed to grant, which I hereby do, the order of certiorari, bringing to this court for purpose of quashing the decision of the 1st respondent dated 22.1.2021 approving the formation of select committee to investigate the conduct of the petitioner.

59. Further, I grant a permanent injunction restraining the respondents from initiating any impeachment proceedings against the Petitioner because the process amounts to victimization of the petitioner for a collective decision of the whole Executive Committee of the County Government of Kericho to reconstitute the Municipal Boards pursuant to the provisions of Urban Areas and Cities (Amendment) Act No 3 of 2019 and reinforced through the interpretation of the Court in **Kericho ELRC Petition no. 6 of 2019 Mogerer Langat & Another versus Governor, Kericho County Government & 2 others**.

60. In conclusion, therefore, I enter judgment for the petitioners by granting the following orders:

- a) Declaration in terms of prayer A, B, C, & D in the petition.
- b) Oder of certiorari as prayed in the petition
- c) Permanent injunction as sought under prayer F in the petition.
- d) The petitioner is awarded costs of the petition.

61. As a parting shot, I wish to observe that my attention was drawn to the discrepancy between procedural requirements set out by section 40 of the County Governments Act provides and standing order 76 in relation to the membership of the select committee and the minimum signatories supporting a motion. The question that arises is whether the county Assembly has the right to contradict the express statutory provision in its Standing Orders.

DATED,SIGNED AND DELIVERED AT NAKURU THIS 21ST DAY OF DECEMBER, 2021.

ONESMUS N MAKAU

JUDGE

Order

In view of the declaration of measures restricting court operations due to the Covid-19 pandemic and in light of the directions issued by his Lordship, the Chief Justice on 15th April 2020, this judgment has been delivered to the parties online with their consent, the parties having waived compliance with Rule28 (3) of the ELRC Procedure Rules which requires that all judgments and rulings shall be dated, signed and delivered in the open court.

ONESMUS N. MAKAU

JUDGE