



REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT OF KENYA AT KERICHO
PETITION NO.1 OF 2019

TOWETT GEOFFREY.....1ST PETITIONER

GODWELL BETT.....2ND PETITIONER

VERSUS

PROF. THOMAS KIMELI CHERUIYOT.....1ST RESPONDENT

PROF. LOICE MARU.....2ND RESPONDENT

PROF. JOSHUA KWONYIKE.....3RD RESPONDENT

BOMET UNIVERSITY COLLEGE.....4TH RESPONDENT

ETHICS & ANTI CORRUTPION COMMISSION.....5TH RESPONDENT

PROF. ESTHER TIRIMA.....6TH RESPONDENT

AND

PUBLIC SERVICE COMMISISON.....1ST INTERESTED PARTY

CABINET SECRETARY

MINISTRY OF EDUCATION.....2ND INTERESTED PARTY

HON. ATTORNEY GENERAL.....3RD INTERESTED PARTY

JUDGEMENT

The petitioners are acting in person. The court allowed the petitioners to amend the petition and include the interested parties. This was done through a Notice of Motion file don 14th August, 2019. The petition is not tailored elegantly and the issues are not clearly set out. The court has made great effort to decipher through the records to identify the issues.

The petitioners are seeking the following orders;

- a. That a conservatory order be and is hereby issued barring the 4th respondent (Bomet University*

College) from conducting interviews of the 1st, 2nd, 3rd and 6th respondents scheduled for 8th February, 2019.

b. That a declaration be issued under Article 73 of the constitution as read with the Fifth and Sixth Schedule to the constitution that the 4th and 5th respondents are under a duty to have regard to personal integrity, character, competence and suitability of the 1st, 2nd, 3rd and 6th respondents when making their appointments to the 4th respondent institution.

c. A declaration be issued that the appointment of the 1st, 2nd, 3rd and 6th respondents in acting capacities at the 4th respondent institution without having regard to their personal integrity, character, competence and suitability when making the said appointment is illegal and unconstitutional.

d. An order do issue to the 5th respondent directing it to commence and conclude investigations on the complaints against the 1st, 2nd, 3rd and 6th respondents with speed and take appropriate actions as they deem fit.

e. The court do make an order compelling the 4th respondent to commence disciplinary proceedings against the 1st, 2nd, 3rd and 6th respondents on matters related to embezzlement and abuse of office in their respective official and personal capacities during their tenure at the 4th respondent institution.

f. The costs and incidental to this petition be awarded to the petitioners.

The petition.

The petition is that the petitioners are both adults and have filed the petition pursuant to article 258 of the constitution and against the 1st respondent the acting principal of Bomet University College and 4th respondent; the 2nd respondent as the acting deputy principal (Administration and Finance) of the 4th respondent; the 3rd respondent as the acting Deputy Principal (A & SA) of the 4th respondent; the 4th respondent being a constituent college of Moi University offering academic courses and research facilities to diverse students; the 5th respondent is a constitutional commission established under article 79 of the constitution and the 6th respondent is the chairperson of Council of the 4th respondent vide legal Notice No.145 dated 27th July, 2017.

The petition is on the facts that the 1st, 2nd, 3rd and 6th respondents have grossly and with intent to defraud abused their respective offices at the 4th respondent by engaging in acts of embezzlement and misappropriation of public funds, abuse of office and breach of trust. In their official capacities at the 4th respondent they have severally enriched themselves with illegal payments of gratuity, procurement irregularities by awarding themselves tenders without following well laid down procedures.

That the petitioners have lodged complaints with the 5th respondent on 16th January, 2019 against the 1st, 2nd, 3rd and 6th respondents to pave way for investigations but the 5th respondent is yet to commence the same despite overwhelming evidence. the 1st, 2nd, 3rd and 6th respondents are scheduled for interviews on 8th February, 2018 despite their renowned corruption and abuse of office offences and thus not fit to hold public office until they are fully cleared of all allegations and if found guilty be ordered to refund all stolen funds to the 4th respondent in full.

The petition is also that 1st, 2nd, 3rd and 6th respondents have failed to uphold the provisions of article 10, 73, 232 of the constitution in the discharge of their duties at the 4th respondent and are not fit to hold public office on the grounds of corruption during their tenure where they have misappropriated public funds by awarding themselves tenders.

There is contravention of article 73 of the constitution for lack of personal integrity, character, competence and suitability prior to confirmation of appointments of the 1st, 2nd, 3rd and 6th respondents. The failure by the 4th respondent to have regard of national values and good governance before inviting the 1st, 2nd, 3rd and 6th respondents for interviews set for 8th February, 2019 and making the appointment of these persons in acting capacity was in contravention and violation of article 10 of the constitution. The failure attributed to the 4th and 5th respondents to have regard to the values and principles of public service before clearing and confirming the appointments of the 1st, 2nd, 3rd and 6th respondents at the 4th respondent violated article 232 of the constitution and particularly the 5th respondent which is constitutionally mandated to investigate the actions of the 1st, 2nd, 3rd and 6th respondents upon receipt of complaints by the petitioners.

The petitioners are therefore seeking that the petition be allowed to safeguard and prevent the violation of the constitution and or nullify the illegalities perpetrated by the respondents.

The petitioners enjoined the interested parties under the provisions of article 233, 152 of the constitution. The basis of enjoying the interested party is the Public Service Commission (PSC) has been adversely mentioned with regard to the petition and has since ignored the court orders herein and where the respondents have led to the loss of over Ksh.21 million shillings. The PSC with the mandate to interview for the management positions of Public Universities, there is obligation to show cause why they have invited the 1st, 2nd, and 3rd respondents for interviews for the 4th respondent council.

The 2nd interested party has the mandate to interview and appoint council members for the 4th respondent and thus accountable herein.

The 3rd interested party has a constitutional mandate to enforce the compliance of the rule of law and a necessary party in these proceedings.

1st and 4th respondents

The respondent filed his Replying Affidavit for self and the 4th respondent and avers that he is the acting principal of the 4th respondent with authority to attend and reply herein.

The 4th respondent began the recruitment process to fill the positions of the Principal, deputy principal (administration and Finance) and Deputy Principal (Academic and Student Affairs) on 1st October, 2018. The process was conducted openly and in compliance with the law and where the 1st, 2nd and 3rd respondent presented themselves for the positions advertised and were shortlisted by the 4th respondent for the respective positions and invited to participate in the interviews that were scheduled for 12th to 14th February, 2019.

On 31st January, 2019 the petitioners filed the instant petition and obtained injunctive orders barring the 4th respondent from conducting interviews. The petition was filed in ignorance of the applicable statute, Universities Act, 2012 which was amended and taking effect on 18th January, 2019 and the interviews to be conducted by the 4th respondent were effectively abandoned.

The Universities Act was amended and section 35(1)(a)(v) the mandate to interview the positions of the 1st, 2nd and 3rd respondents for the 4th respondent placed with the 4th respondent.

The orders sought in the petition are no longer available.

Courts do not act in vain and the petition should be dismissed with costs to the respondents.

The petition is incompetent and without merit on the grounds that the orders sought cannot be issued by

the court which has no jurisdiction to grant orders against the 5th respondent which by law can commence investigations against anyone on its own motion on a complaint made by any person and the court cannot interfere with the functions of an independent constitutional body compelling it to show cause in this case. The court should not interfere with the administrative affairs of the 4th respondent and the investigations sought have criminal consequences and the mandated agency in law is the 5th respondent whereas the remedies sought by the petitioners are general without evidence. The petitioners have not exhausted other available remedies before resorting to court.

Further response by the 1st and 4th respondent is that the petition is incompetent and should be dismissed as it has failed to meet the threshold set out in the case of **Anarita Karimi Njeru versus the Attorney General**. There are unfounded allegations without evidence with criminal sanctions and correct procedures have not been invoked.

The payment of salaries, gratuity and other payments done by the 1st, 2nd and 3rd respondents under the 4th respondent is within an entity with system approved by council and no funds have been paid outside of the system.

The respondents have not breached any procurement laws and procedures while obtaining goods or services. In particular the tenancy agreement between the University and Wilson Kipsang Rop was an extension prior to completion of the tendering process that had been advertised and this is not unlawful. The procurement of legal service to the firm of SMS Advocates LLP was within the provisions of section 56(1) of the Public Procurement and Asset Disposal Act.

The allegations made by the petitioners are with malice as they are employees of another entity and were on secondment to the 4th respondent. The petitioners have serious integrity issues and therein character is subject of investigations both within the 4th respondent and of criminal nature. The 1st petitioner has been charged in **Chief Magistrates Court at Bomet Criminal Case No.148 of 2019** with two counts of forgery and one count of authoring a document without authority and is currently facing trial and is to undergo disciplinary process of the employer.

The 1st petitioner has filed the instant petition in a bid to divert attention and maliciously malign the respondents hoping to circumvent disciplinary processes that would be instituted against him.

The 2nd, 3rd and 6th respondents

There is no response by these respondents.

5th respondent

The 5th respondent filed a statement and Grounds of Opposition that the court lacks jurisdiction to entertain the petition by dint of article 162(2)(a) of the Constitution; the 5th respondent is legally mandated to investigate the conduct of any person with regard to what constitutes corruption, economic crimes or unethical conduct as provided by the Anti-Corruption & Economic Crimes Act, Ethics & Anti-Corruption Commission Act and this court has no power to deal with corruption offences. That the petitioners have not produced any evidence to demonstrate the 5th respondent has violated their rights and the orders sought are premature as no investigations are on-going and the 5th respondent has not made any recommendations or findings. The petition should be dismissed with costs.

1st interested party

The 1st interested party, PSC in reply filed the Replying Affidavit of Simon Rotich the secretary and chief Executive Officer and avers that the PSC is established under Article 233 of the constitution and its functions prescribed under article 234(2) of the Constitution. the PSC may also undertake other functions

conferred by statute such as the Statute Law (Miscellaneous Amendment) Act, 2019 amended section 35(1)(a)(v) of the Universities Act and bestowed upon the PSC powers to competitively recruit vice chancellors, deputy vice chancellors and principals of constituent colleges of public universities. The amendment came into effect on 18th January, 2019.

Prior to the amendment of the Universities Act the university council were responsible for the recruitment of the top leadership of public universities. This function has been transferred to the PSC.

On 14th February, 2019 the PSC wrote to all public university councils informing them of the amendment and in response the chair of the 4th respondent council wrote to the PSC and advised they had already advertised several positions that now fell under the PSC mandate. The council requested the PSC to consider that the recruitment process was urgent in filling the positions and to take over the remaining steps. The PSC took note that applications had been received from interested candidates and which were publicised. The advertisement period had closed on 20th November, 2018.

Guided by the principles in article 232(1) of the constitution the PSC pursuant to section 37 of the Public Service Commission Act took over the process from where the 4th respondent had reached which was economical and effective.

The orders sought to have the PSC called to show cause and interview results would amount to invitation of privacy for those who applied for the positions. The petitioners are not among those who had applied. The information sought is protected under section 6 of the Access to Information Act.

On the questioned advice given to the 4th respondent by PSC, public universities are not among the institutions exempted under the mandate of the Public Service Commission pursuant to Article 234(3) of the Constitution. Even without the Universities Act the PSC has an advisory role over public universities on matters of human resources. The advice sought by the 4th respondent council on the vacant positions was proper and lawful. Advice was therefore given vide letter dated 4th April, 2019 and the director legal services attended a meeting with the 4th respondent.

The PSC advised the 4th respondent to ensure continuity by having officers hold the vacant positions in an acting capacity in line with section 34(3) of the Public Service Commission Act. Such would be pending recruitment of substantive office holders.

The petition as made against the 1st interested party has no merit and should be dismissed with costs.

2nd and 3rd interested parties

There were no responses by these respondents.

Written submissions

The petitioners and the respondents filed written submissions.

The petitioners submitted that the main issue in dispute is the remuneration of management, procurement irregularities leading to loss of public funds at Ksh.23 million and Ksh.200 million with regard to hostels tendered in the year 2016. The remuneration of management at the 4th respondent is unlawful and this coupled with other misappropriation of funds and instructions of advocates to act for the 4th respondent and the 5th respondent having failed to investigate the petition herein is justified and the orders sought should issue.

The 2nd interested party has never respondent to letters sent to the office and knowingly appointed the 2nd respondent as vice chancellor of the 4th respondent. The court had barred such appointment. This is in

breach of the law and the constitution and the petition should be allowed.

The 1st, 2nd, 3rd and 6th respondents submitted that this court lacks jurisdiction to hear the petition. The orders sought seeking to direct the 5th respondent to commence investigations against the respondents cannot issue as such body is not mandated to undertake such investigation. A challenge to the personal integrity, character, competence and lawfulness of the appointment of the respondents on the grounds there is alleged corruption is outside the jurisdiction of the court.

In the case of **Owners of Motor Vessel “Lillian S” versus Caltex Oil Kenya**

Limited [1989] KLR the court held that without jurisdiction a court should down its tool. Article 162 of the constitution give the court jurisdiction to hear employment and labour relations disputes and in this petition, there is no jurisdiction as held in the case of **Kenya Medical Research Institute versus Davy Kiprotich Koech civil Appeal No.207 of 2013** that a court’s jurisdiction flows from the constitution or legislation.

The declaratory orders sought by the petitioners fall outside the jurisdiction of this court. Section 28 of the Ethics and Anti-Corruption Act provides that the Anti-Corruption commission should investigate all corruption related complaints. The commission has not been moved in this regard removing the court jurisdiction for this matter.

Similarly, under section 35 of the Universities Act the 2nd interested party is removed from appointing vice chancellor, deputy vice chancellor and principals of constituent colleges of public universities and placed such mandate with the 1st interested party. Such interviews were conducted by the 1st interested party pursuant to the applicable law.

The petition should be dismissed with costs.

The 4th respondent submitted that the court lacks jurisdiction to hear the petition as the nature or orders sought related to alleged corruption and misappropriation of public funds and such matters ought to be filed with the Anti-corruption court after complaints to the 5th respondent.

On the allegations that the 4th respondent failed to adhere to procedure in the appointment of the 2nd respondent, there was compliance with statutory procedures under section 35 of the Universities Act and the challenge of such appointment was subject of **Eldoret ELRC Petition No.11 of 2019 – Julius Singoei & another versus Bomet University College Council & others** and judgement was delivered on 5th December, 2019. The court held the appointment was lawful and procedural.

Therefore without jurisdiction and the issue of appointment of the respondents with the 4th respondent having been addressed, the petition herein should be dismissed with costs.

Determination

On the petition and response and written submissions; the issues which emerge for the court determination can be summarised as follows;

Whether the court has jurisdiction to hear and determine the petition;

Whether the orders and declaration sought should issue.

Before delving into the issues set out above it is important to addresses the petitioner’s application and invocation of Article 258 of the Constitution, 2010.

In the preamble of the petition, the petitioners assert that they have made the instant petition under the provisions of article 258 of the Constitution, 2010. Article 258 provides for the enforcement of the

constitution by the following persons;

258. Enforcement of this Constitution

1. Every person has the right to institute court proceedings, claiming that this Constitution has been contravened, or is threatened with contravention.

2. In addition to a person acting in their own interest, court proceedings under clause (1) may be instituted by—

- a. a person acting on behalf of another person who cannot act in their own name;*
- b. a person acting as a member of, or in the interest of, a group or class of persons;*
- c. a person acting in the public interest; or*
- d. association acting in the interest of one or more of its members.*

Have the petitioners satisfied the provisions of Article 258 of the Constitution, 2010? Save to urge the court on these provisions, the petitioners do not give any further description of themselves. More details is offered by the 4th and 6th respondents to the nature that the petitioners are employees of the 4th respondent on secondment from Moi University and where they are facing disciplinary proceedings following various misconduct and to divert attention from themselves have filed the instant petition against the respondents and now enjoined the interested parties.

Under Article 22 read together with Article 258 of the Constitution, 2010 a person(s) who wish to enforce the Constitution must fit into one of the categories set out in the two Articles and must specify the capacity in which they have come to court under either of the two constitutional provisions. It is not sufficient for a party to simply allege and or assert they are covered under Article 258 of the Constitution, 2010. Great regard should be given to the details thereof and particular in a petition where the petitioner seeks to rely on employment and labour relations jurisdiction of this court. the petition begs the question whether the issue before the court is in the public interest or falls within the private law arena. See **Humphrey Makokha Nyongesa & another versus Communications Authority of Kenya & 2 others [2018] eKLR.**

The petitioners seek to stop the interviews of the 1st, 2nd, 3rd and 6th respondents as officers of the 4th respondents on the grounds that the 4th and 5th respondents have the duty to investigate the personal integrity, character, competence and suitability of these respondents before making their appointment to the 4th respondent. The petitioners are also seeking that the 5th respondent be directed to commence investigations on the complaints made against the 1st, 2nd, 3rd and 6th respondents and that the 4th respondent to commence disciplinary proceedings against the 1st, 2nd, 3rd and 6th respondents on matters related to embezzlement and abuse of office in their respective official and personal capacities during their tenure at the 4th respondent institution.

Whereas the issue of appointment of any person with regard to holding public office is primarily a matter of employment and labour relations and for connected purposes giving this court jurisdiction pursuant to the provisions of Article 162(2) and (3) of the constitution, 2010 the substantive issue and leading to the instant petition is that the appointment of the 1st, 2nd, 3rd and 6th respondents should be stopped to allow for investigations over alleged embezzlement and abuse of office in their respective official and personal capacities during their tenure at the 4th respondent institution. This stands out to this court as the core issue in contention. See **Lee Njiru versus J.K. Lokorio & another [2019] eKLR.**

Allegations of embezzlement and abuse of office by any person acting in official or personal capacity are matters ordinarily for the 5th respondent to deal as this is the body and agency with the requisite mandate

under the constitution, the law and in practice clothed with the expertise and technical skills to address. Where then the substantive issue at hand is as analysed above, as correctly submitted by the respondents and the 1st interested party, the court is without jurisdiction and should down its tools.

Further and as set out above, the interest by the petitioners herein to lodge the instant petition under article 258 or 22 of the Constitution is not defined. It cannot be discerned from the pleadings.

It has been brought to the court's attention that the 1st petition is charged in **Chief Magistrates Court at Bomet Criminal Case No.148 of 2019** for criminal misconduct in his employment with the 4th respondent thus creating motive to file the instant petition against the respondents. The 1st petitioner and indeed the petitioners should not be aided by this court in this regard.

Even where the court had jurisdiction, which is not the case here and As noted in the first paragraph of the judgement, the pleadings filed by the petitioners are hard to decipher as to the real issues articulated. The court is however conscious of the cardinal rule in construction of pleadings, especially in our adversarial system of litigation that a party is bound by their pleadings, which is meant to protect the other party who should not be ambushed with new claims in the course of a hearing. See **Communications Authority of Kenya versus Okiya Omtata Okoiti & 8 others [2020] eKLR**.

The petitioners opted to move the court by way of a petition. Various orders and declaration are sought. There are well settled principles which were articulated quite early in the case of **Anarita Karimi Njeru versus Republic (1976-1980) KLR 1272** that a person seeking redress from the court on a matter which involves a reference to the Constitution, should set out with reasonable degree of precision in particular how the alleged acts amount to infringement of the person's constitutional rights. These principles were reiterated in the case of **Mumo Matemu versus Trusted Society of Human Rights alliance [2014] eKLR** that;

if a person is seeking redress from the High Court on a matter which involves a reference to the Constitution, it is important (if only to ensure that justice is done to his case) that he should set out with a reasonable degree of precision that of which he complains, the provisions said to be infringed, and the manner in which they are alleged to be infringed

The petition and the supporting affidavits herein are based on allegations of what was feared might happen, conjectures or at best unconfirmed sources of information. Where the petitioners fear that the 1st, 2nd, 3rd and 6th respondents scheduled interview is contrary to Article 73 of the Constitution, 2010 for the reason of personal integrity, character, competence and suitability for appointment to the 4th respondent and that the 5th respondent should commence investigations on complaints against the respondents, there is no evidence of having moved the 5th respondent or any other body or agency competent and mandated to carry out investigations with regard to personal integrity, character, competence and suitability for appointment to the 4th respondent.

In any event, under the provisions of section 35 of the Universities Act, 2012 the 1st interested party, PSC now enjoined in these proceedings is mandated to competitively recruit the Vice Chancellor, Deputy Vice Chancellor and Principals of constituted colleges of public universities.

Such mandate by the PSC was in motion when the instant petition was filed. With a competitive recruitment process and the mandate of the PSC under Article 234 and Chapter Four (VI) of the Constitution, 2010 is bound.

Article 35 of the Constitution, 2010 provides for the right of access to information. Every person has the right to access information held by the State and held by another person and required for the exercise or protection of another right. Where the petitioners required any information with regard to the 1st, 2nd, 3rd and 6th respondents and their duties with the 4th respondent, there is nothing to show that this information particularly as concerns their personal integrity, character, competence and suitability for appointment

was requested for and denied.

Upon the publication of the list of persons to be interviewed for the advertised position, these were posted on 30th November, 2018 on *My Gov* and also appear on the 4th respondent website at www.buc.ac.ke

The 4th respondent was open and transparent with regard to the process of recruitment for the advertised positions. To stop the process of recruitment for the positions of Vice Chancellor, Deputy Vice-Chancellor and the Principals without invoking the agencies with the constitutional mandate to investigate the personal integrity and character of the applicants and the 1st, 2nd, 3rd and 6th respondent was premature and without foundation.

Equally the questions with regard to competence and suitability of the applicants to be interviewed and particularly the 1st, 2nd, 3rd and 6th respondents could only be determined by the PSC upon undertaking the interviews through a competitive process pursuant to section 35(1)(a)(v) of the Universities Act, 2012.

To stop the process of recruitment on the basis that the candidatures of 1st, 2nd, 3rd and 4th respondents are not competent or suitable is pre-emptive and subjective. Such is an obvious disadvantage to the 1st, 2nd, 3rd and 6th respondents as applicants who should be given a fair opportunity like other candidates. To allow the petition in this regard would not foster the principles outlined under article 232, 234(2)(c) and 236(a) of the Constitution, 2010.

On the documents attached to the petition on the payment of gratuity vide letter dated 14th November, 2018 by the 3rd respondent for a contract running from 10th May, to 9th November, 2018 for acting as Deputy Principal, Administration and Finance, such are matters which can be addressed in an audit at the 4th respondent with investigatory mandate in the use and application of public funds and resources should be invoked. To move the court and require for an order to commence investigation is premature and obvious implication on the petitioners that they have moved the court on a fishing expedition as it were. This is in abuse of the court process.

Similarly, on the schedule of payments attached as annexure "TG-1" on the face of it, it is not clear what the payments to the various cited persons relate to. This is just but a schedule showing a basic salary, various allowances, pension and a net payment. The author and source of this document is not stated.

With regard to annexure "TG-3" the tenancy agreement between Wilson Kipsang Rop and the 4th respondent is incomplete, and the lifted content does not speak on its own to the court. I take it this is choreographed to give a specific impression to the court and its import and net effect is hence lost.

On the alleged single sourcing of legal services, unless the petitioners show case the entire procurement process undertaken by the respondents in securing the services of *SMS Advocates* visa-a-vis others, the annexure "TG-4(b)" submitted in this regard is not evidence of single sourcing. The letter "TG-4(b)" is specific and relating to *Principal Magistrates Court Bomet Civil Suit No. ... of 2018: Bernard Kipngetich Ruto t/a Garden Hardware Limited versus Bomet University College and Dr Kirui*. The author acknowledges receipt of instructions to attend to the matter. The material relied upon is not evidence of malpractice requiring the court to intervene and issue the orders sought in the petition.

Where the 4th respondent has failed to adhere to procurement of services, the forum for the petitioners to urge their case is not this court.

Section 35(1)(a) of the Universities Act, 2012 as amended by Statute Law (Miscellaneous Amendments) Act No.18 of 2018 provides that the PSC and the 1st interested party herein is the body to appoint and fill the positions of Vice Chancellor, Deputy Vice Chancellor and Principals and Deputy Principals of Constituent Colleges through a competitive process. Such process should be undertaken in consultation with the Cabinet Secretary and the 2nd interested party herein. Section 35(1)(a)(v) provides that;

In the case of public universities, appoint Vice Chancellor, Deputy Vice Chancellor and Principals and Deputy Principals of Constituent Colleges, in consultation with the Cabinet Secretary, after a competitive process conducted by the Public Service Commission.

The requirement that the PSC should attend to show cause and give interview results looked at in view of the foundation of the petition is without merit. To require for information from a party, the petitioners should clearly and unequivocally show that they have sought for such information pursuant to Article 35 of the Constitution, 2010 and should information has not been issued within the legal protections of the Freedom of Information Act.

The totality of the petition is that the court is without jurisdiction and should down its tools. These begin matters brought to the attention of the petitioners from the onset and still urged the petition on, they ought to pay costs due to the respondents and to the 1st interested party.

The Petition is hereby dismissed for want of jurisdiction. Costs awarded to the respondents and the 1st Interested party.

Dated and delivered electronically this 30th July, 2020.

M. MBARU

JUDGE