



**Makoko v Mwenya & another (Environment & Land Case E005 of 2022)  
[2024] KEELC 13308 (KLR) (21 November 2024) (Judgment)**

Neutral citation: [2024] KEELC 13308 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT BUNGOMA  
ENVIRONMENT & LAND CASE E005 OF 2022  
EC CHERONO, J  
NOVEMBER 21, 2024  
IN THE MATTER 2,3,10,19,20,21,22,23,27,40,42,47,48,50(1),64,59,162(2)(B) AND  
259 OF THE CONSTITUTION OF KENYA, 2010.**

**AND**

**IN THE MATTER OF ALLEGED CONTRAVENTION, THREATENED  
& VIOLATION OF FUNDAMENTAL RIGHTS AND FREEDOMS  
UNDER ARTILES 10,19,40(1) AND 3,42,47,50(1) AND 69(2).**

**AND**

**IN THE MATTER OF SECTIONS 24,25,26,30,31,79,80,81,86  
AND 87 OF THE LAND REGISTRATION ACT, 2012.**

**AND**

**IN THE MATTER OF REGISTERED LAND ACT CAP 300 OF LAWS OF KENYA (REPEALED).**

**AND**

**IN THE MATTER OF THE LAND DISPUTES TRIBUNAL ACT NO.18 OF 1990(REPEALED)**

**BETWEEN**

**PETER JUMA MAKOKO ..... PETITIONER**

**AND**

**DEKILA NANJALA MWENYA ..... 1<sup>ST</sup> RESPONDENT**

**THE HONOURABLE ATTORNEY GENERAL ..... 2<sup>ND</sup> RESPONDENT**

**JUDGMENT**

1. The petitioner filed a petition dated 24/08/2022 seeking the following orders;



- a. That a declaration be issued that the petitioner is and still remains the bonafide owner of L.R No. Bungoma/Soysambu/279
  - b. That a declaration be issued that the petitioner's fundamental rights and freedoms to equality before the law, a right to own and hold property, fair administrative action and rights to a fair hearing have been violated.
  - c. That a declaration be issued that the proceedings and the decisions of Tongaren Land Dispute Tribunal that purportedly awarded L.R. No. Bungoma/Soysambu/279 to the 1<sup>st</sup> Respondent were irregular, unlawful, invalid, null and void for all purposes.
  - d. That an order of judicial review by way of certiorari be issued removing into this honourable court for quashing the decision of the said Tongaren Land Disputes Tribunal with respect to L.R.No. Bungoma/Soysambu/279 and the subsequent adoption by the subordinate court.
  - e. Costs of this petition
  - f. Any other suitable or alternative relief this honourable court may deem fit and just to grant.
2. The Petition is supported by the affidavit of the Petitioner sworn on 24/08/2022. It was averred that during the lifetime of one Sitini Wabomba who died on 22/05/1988, he was the owner of Land Parcel no. Bungoma/Soysambu/279 (herein after referred to as the 'suit land') which was registered in the name of the Settlement Fund Trustees. That vide letters of administration filed in Bungoma HC Succ Cause No.75 of 1998, the petitioner petitioned for letters of administration. That the abovementioned land had been sold to one Samuel Wamalwa Ekasirimait and that upon succession, it was distributed and title closed upon sub-division as follows; Peter Juma r. Makoko-Land Parcel No.Bungoma/Soysambu/1762 measuring 5 acres, and Samuel Wamalwa Ekasirimait- Land Parcel No.Bungoma/Soysambu/1762 measuring 10 acres.
  3. It was deposed that the said Samuel Wamalwa Ekasirimait sold his share to Dunstan Namusonge. That he later found out that one Dekila Nanjala Mwenya and Mwenya Wanaswa Silali had filed a case against Sitini Wabomba before the Tongaren Land Dispute Tribunal(LDT) in the year 2010 which had been heard and determined without his participation and an award made and the same adopted as an order of the court. The petitioner stated that it had been alleged that Sitini Wabomba had been served with court documents in Kimilili SRM Land Case No.17 of 2010 on 17/11/2010 despite the fact that he had died 22/05/1988 and letters of administration had been take out in the year 1998. He further stated that at the time the proceedings were initiated, the suit land was non-existent as a sub-division had been done and new titles created for Land Parcel no. Bungoma/Soysambu/1761 and 1762. He argued that the proceedings before the LDT and subordinate court were a nullity.
  4. The petitioner stated that to the best of his knowledge, Sitini Wabomba was initially involved in a dispute with one Juma Kachenja Wanaswa alias Mwenya Wanaswa Silali in Kitale SRMC Suit No. 22 of 1976 which ended with the latter being evicted. That he has never been served with any trial documents either before the LDT or Kimilili SRM Land Case No.17 of 2010. He urged he court to exercise its supervisory jurisdiction and grant the orders sought. The following documents were attached to the petition;A copy of certificate of death-Sitini Wabomba.(PEx 1)A copy of search of for Land Parcel no. Bungoma/Soysambu/279 as at 26/08/2009. (PEx 2)A copy of grant of letters of administration for the estate of Sitini Wabomba. (PEx 3)A copy of certificate of confirmation of grant for the estate of Sitini Wabomba. (PEx 4)A copy of agreement between sitini Wabomba and Samuel Wamalwa dated 15/01/1988. (PEx 5)A copy of mutation form. (PEx 6)Copies of certificate of official search for Land Parcel no. Bungoma/Soysambu/1761 and 1762. (PEx 7)Copy of decree in Kimilili SRM Land Case No.17 of 2010. (PEx 8)Copy of proceedings in Tongaren LDT. (PEx 9)Affidavit of service in Kimilili



SRM Land Case No.17 of 2010. (PEx 10a)Proceedings, rulings and eviction order in Kitale SRMC Suit No. 22 of 1976. (PEx 10b)

5. Upon service of the said court processes, the 1<sup>st</sup> Respondent filed a response to the application dated 18/10/2022. It was contended that at the time of filing of the succession proceedings for the estate of Sitini Wabomba, the suit land was registered in the name of the Settlement Fund Trustees and was irregularly discharged and registered in the name of Sitini Wabomba in the year 2010 after his demise. That the 1<sup>st</sup> respondents' husband one Juma Kachenja Wanaswa alias Mwenya Wanaswa Silali had purchased the suit land from Sitini Wabomba through the Settlement Fund Trustees and upon full payment, he declined to cause for a transfer which resulted to a series of cases. She averred that she has been in use and occupation of the suit land for over 40 years together with others who she has since sold portions of the suit land to and has buried her husband therein in the year 2010.
6. It was her statement that the sub-division of the suit land was marred with fraud and that she has placed cautions over the said land. She further averred that she learnt that one Dunstone Namusonge had sued Samuel Wamalwa Ekasirimait in Kimilili ELC No.22 of 2019 and an order of eviction had been issued against her and others prompting her to seek stay which was issued but unfortunately Samuel Wamalwa Ekasirimait passed on. The 1<sup>st</sup> respondent contends that the petitioner herein ought to have appealed against the decision of Kimilili SRMC Land Case No. 17 of 2010 which he has not. It was her case that the eviction order in in Kitale SRMC Suit No. 22 of 1976 have never been effected since she is still in occupation of the suit land. She attached the following documents; Copy of official land search for Bungoma/Soysambu/279. (DEx 1) Land Tribunal proceedings before the Tongaren LDT. (DEx 2) Decree in Kimilili SRMC Land case 17 of 2010. (DEx 3) Letters/correspondences dated 04/08/2009 by the director of Land Adjudication and settlement. (DEx 4) Sale agreement between Sitini Wabomba and Mwenya Waswa dated 04/05/1966. (DMF1 5) A copy of receipt by AFC dated 01/03/1982 for Kshs.10,000/= . (DEx 6) Transfer and consent in compliance with above decree by Executive officer Kimilili Law Courts. (DMF1 7) Copy of certificate of death for Mwenya Wanaswa Silali. (DEx 8) Copy of plaint, application and order in Kimilili ELC No. 22 of 2019 Dunstan Wafula Namusange vs. Samuel Wamalwa Ekasirimait 7 Dekila Nanjala Mwenya. (DEx 9). Copy of certificate of search for L.R. No. Bungoma/Soysambu/1761 and 1762 DE10 a & b. Copy of official land search for Bungoma/Soysambu/279. (DEx 11)
7. Upon compliance with order 11, the parties proceeded by way of viva voce evidence where the petitioner called one witnesses and the respondents called three Witnesses.

#### **Petitioners Case.**

8. PW1 Peter Juma Makoko adopted the contents of his petition and produced into evidence the documents attached thereto as P-Exhibit 1-10 respectively. In cross examination, he stated that Sitini Wabomba-(deceased) was his father and that he has never lived in the suit land and that the 1<sup>st</sup> Respondent has been in occupation of the same since 1976. He however denied his father ever sold the suit land to the 1<sup>st</sup> Respondent and her husband. He testified that when he did a succession for his late fathers' estate, he allocated 2 acres to the 1<sup>st</sup> Respondent. It was his evidence that the agreement between his father, Sitini Wabomba and Samuel Wamalwa Ekasirimait was not witnessed. On re-examination, he stated that he was never served with summons to attend the LDT.

#### **Respondents Case.**

9. DW1 Dekila Nanjama Mwenya adopted the contents of her response to petition, affidavit in response to petition dated 18/10/2022 and witness statement dated 24/03/2023 as her evidence in chief. She produced her list of documents dated 24/03/2023 which contained 14 items but produced as 10 items



as he documentary evidence. In cross-examination she testified that her husband passed away in the year 2010. She testified that the agreement between Sitini Wabomba and her husband marked as DMFI 5 does not indicate the acreage sold, the consideration thereto and the signatures by the parties.

10. DW2 John Sitanda Kubasu adopted his witness statement dated 24/3/2023 as his evidence in chief. In cross examination he testified that he bought a portion of the suit land measuring 1 ½ acres from the 1<sup>st</sup> respondent and her husband in 1993.
11. DW3 Sylvestous Wanyama Sungura adopted his witness statement dated 24/3/2023 as his evidence in chief. In cross examination he testified that he bought a portion of the suit land measuring 1 acre from the 1<sup>st</sup> respondent and her husband. That he house was demolished and he was informed that it was as a result of a court order.

### **Petitioners submissions.**

12. The petitioner filed submissions in support of their petition dated 03/09/2024. He submitted that Sitini Wabomba did not participate in any proceedings before the LDT since he died on 22/05/1988 and that the proceedings that ensued are in contravention of Article 50(1) of *the Constitution* which guarantees the rights to a fair hearing and Article 40 which guarantees a right to protection of property. He relied on the case Benjamin Leonard MC Foy vs. United Africa Company Limited 1961, C. Mutu vs. Bharath Match Works Air 1964 Kant 293 Further, he challenged the jurisdiction of the LDT to handle disputes revolving around ownership of land. He quoted the provisions of Section 3 of the Land Dispute Tribunal *Act No. 18 of 1990* and the case of Lemita Ole Lemein vs. Attorney General & 2Others (2020) eKLR. The petitioner submitted that the proceedings against Sitini Wabomba are a nullity for having been filed against a deceased person and quoted the case of Viktar Maina Ngujiri vs. Attorney General & 6 Others (2018) eKLR.

### **1<sup>st</sup> Respondent's Submissions.**

13. She filed submissions dated 04/10/2024 where they submitted on four issues. On the first issue it was submit that the suit was time barred by dint of section 7 of the *Limitation of Actions Act*. It was her submission that the petitioner obtained title of the suit land on 08/06/2010 while this suit was filed on the 31/08/2022 which period is over the provided 12 years. She quoted the case of Katana Midzomba Kabani VS. Grace Kabibi Keah & 2 Others Malindi HC ELC No. 26 of 2017.
14. On the second issue it was submitted that the suit land was public land under the Settlement Fund Trustee. That the said Wabomba who died in 1988 was registered as the owner of the suit land on 08/06/2010 after the alleged succession proceedings and on the same day the petitioner was registered as the owner. That the 1<sup>st</sup> respondent despite being the one in occupation of the land, she was not involved in the succession cause. It was submitted that the petitioner has not established his case by demonstrating that he was entitled to any rights at all. The 1<sup>st</sup> respondent urged the court to dismiss the petition with costs to her.

### **Analysis and Determination**

15. I have had the opportunity to read and evaluate the pleadings of the parties and their submissions together with the precedents cited in support. In my view, the issues that arise for determination in this Petition are as follows;
  - a. Whether the petition is time barred.
  - b. Whether the petitioner's constitutional rights and freedoms were violated by the Respondents.



- c. What remedies if any are available to the petitioner.
16. The crux of this petition is that the Petitioner avers that his right to hold land has been violated as a result of the proceedings instituted by the 1<sup>st</sup> respondent before the Tongaren LDT which issued an award declaring the 1<sup>st</sup> respondent as the rightful owner of the suit land which award was adopted by the subordinate court in Kimilili ordering for the registration of the 1<sup>st</sup> respondent as the proprietor. He averred that the proceedings before the said tribunal and the subordinate court are a nullity for being filed against a deceased person. The petitioner's case was that upon the death of Sitini Wabomba, he filed a succession cause that saw him become the registered owner of the suit land which he later sub-divided into two portions for himself and one Samwel Wamalwa Ekasirimait who had purchased from Sitini Wabomba.
17. The 1<sup>st</sup> Respondent on the other hand argued that her late husband Mwenya Wanasa Silali purchased land from Sitini Wabomba back in the year 1966 and before a transfer could be effected the said Sitini Wabomba relocated and could not be traced. It was her case that the said land was registered in the name of the Settlement Fund Trustee and that they were expected to settle the loan owed before being registered as owners. That she has lived with her husband on the suit land for over 44 years without any interruption/interference.

### **Whether the petition is time barred**

18. On whether the petition is statute barred, it has been submitted by the 1<sup>st</sup> respondents that the petitioner has been indolent and is guilty of laches, the cause of action having arose more than 12 years ago and it is clear that from the foregoing, the petitioner has never utilized the suit property for a period of over forty (40) years which is well over the statutory period provided for recovery of land. The 1<sup>st</sup> Respondent argued that having been registered as proprietor of the suit land on 08/06/2010 and having filed the current petition on 31/08/2022, the Petitioner is statute barred by two (2) months after the required period. This leads me to the question whether a Constitutional Claim founded on Bill of Rights has a limitation period.
19. In the case of *Joan Akinyi Kabaselleh & 2 others vs Attorney General (2014)Eklr*, the court held:-
- “Although there is no limitation period for filing proceedings to enforce fundamental rights and freedoms, the court in considering whether or not to grant relief under section 84 of *the Constitution*, is entitled to consider whether there has been inordinate delay in lodging the claim. The Court is obliged to consider whether justice will be served by permitting a respondent, whether an individual or the State in any of its manifestations, should be vexed by an otherwise stale claim.”
20. Further, in *David Gitau Njau & 9 others vs Attorney General (2013) eKLR, H.C at Nairobi, Petition No.340 OF 2012*, the court stated as follows;
- “I must also state that I agree with the Respondents that it is ideally prudent to institute proceedings as early as possible from the time the alleged breaches occurs but for obvious reasons, I am clear in my mind that there is no limitation period imposed by the Repealed Constitution and the rules made thereunder under Section 84 for seeking redress for violation of fundamental rights and freedoms and in the particular circumstances of this case”.



21. Therefore, from the above case law, *the Constitution* does not provide for time limit within which to file a claim founded on violation of the constitutional rights under the Bill of Rights. Be that as it may, constitutional petitions like all other processes of the court, ought to be brought promptly or within a reasonable time, the length of delay in bringing such a claim is material depending on the circumstances of the case and the nature of the claim. Otherwise, they may be considered an abuse of the court process. As was held in the above precedents this court shares the view that where there has been delay which is likely to prejudice the opposite party, the applicant should be made to account for the delay.
22. The petitioner in this case has pointed out that the 1<sup>st</sup> respondent and her husband through Kitale Resident Magistrates Court Civil Case No. 22 of 1976 had been ordered to vacate from the suit land. The 1<sup>st</sup> respondent has stated that the said eviction orders were never effected and that she and her husband continued to be in occupation of the suit land to date. Despite presenting this evidence, the petitioner has not explained what actions, if any, were taken to ensure the enforcement of those orders. It appears that no efforts were made, and in my view, had those initial orders being the earliest in the dispute been executed, the current issues would likely have been avoided. Instead, Sitini Wabomba, and now the petitioner, chose inaction while the 1<sup>st</sup> Respondent continued occupying the land and even began selling portions of it to third parties.
23. It is even more concerning that despite purchasing the suit land as alleged on 15/01/1988, Samuel Wamalwa Enkasirimait never took possession of the property. Further, the petitioner has not denied the fact that the 1<sup>st</sup> Respondent has been in possession and use of the suit property since 1976. This court has not also been told why he took no steps to assert his rights back then. I am not persuaded that the proceedings by the 1<sup>st</sup> Respondent filed in the year 2010 provoked the petitioner enough to assert his rights because even after becoming aware of the said proceedings, he filed this suit very late in the day and no explanation for the delay has been given.
24. One of the cardinal principles in our constitution is “the expeditious delivery of justice” –see Article 159 (2) (b) of *the Constitution* of Kenya, which in effect codifies the 17<sup>th</sup> century maxim of “Justice delayed is justice denied”. Thus in law and in Equity, delayed justice is abhorred. My conclusion on this point is that the Petitioners claim is stale and is statute barred.

#### **Whether the Petitioner’s rights were violated under *the Constitution*?**

25. In support of his case, the Petitioner produced a copy of certificate of title for the suit land which showed that as at 26/08/2009 the suit land was registered in the name of the Settlement Fund Trustee. He also showed that he was the appointed legal representative for the estate of Sitini Wabomba. In the confirmed grant, it shows that the said deceased’s estate was the suit land which was to devolve to the petitioner and Samuel Wamalwa Ekasirimait. It is unclear under what circumstances the suit land which was still registered in the name of the Settlement fund Trustee was considered as part of the estate of Sitini Wabomba. Further, it is not established how the title of the suit land moved from the name of the Settlement Fund Trustee to being sub-divided to form L.R No. Bungoma/Soysambu 1761 and 1762. This court reads mischief and clear irregularities in the manner in which the abovementioned transactions occurred.
26. The petitioner further produced proceedings of Kitale SRM’S Court case No. 22 of 1976 where Sitini Wabomba had sued one Juma Wachanja which name seems to have been found to be an alias for Mwenya Wanaswa Silali. From the contents of the said proceedings, it seems the court states that it finds that an eviction was executed against the Respondent therein. Now looking at the evidence presented, it is clear that the 1<sup>st</sup> Respondents’ family has been in occupation of the suit land since 1966. The petitioner admits that no eviction was ever carried out and the 1<sup>st</sup> respondent confirms as much. The



said judgment/decree was issued on 16/04/1980. This courts attention is drawn to the provisions of Section 4 (4)of the Limitations of Actions Act states as follows:

“ An action may not be brought upon a judgment after the end of twelve years from the date on which the judgment was delivered, or (where the judgment or a subsequent Order directs any payment of money or the delivery of any property to be made at a certain date or at recurring periods) the date of the default in making the payment or delivery in question, and no arrears of interest in respect of a judgment debt may be recovered after the expiration of six years from the date on which the interest became due”.

27. The purpose of the above section is to eradicate stale claims and stop the vexing of litigants. Where a judgment holder elects to sleep on a decree, he is estopped from waking up from his slumber after 12 years have lapsed to claim his right. The law bars such claims. The petitioner can therefore seek to enforce or rely on the said decree, having slumbered over his rights and let the 1<sup>st</sup> Respondent continue being in occupation of the land.
28. The 1<sup>st</sup> Respondent argued that she was awarded the suit land by the Tongaren LDT and the award adopted in court where orders were issued to the executive officer Kimilili to sign transfer forms to enable her get a title for the land. However, the petitioner presented evidence that at the time of filing of the said proceedings before the LDT and the subordinate court, Sitini Wabomba was deceased, having died in the year 1988. This court agrees with the petitioner’s argument that the proceedings before the LDT and the subordinate court adopting the LDT’S award is nullity and thus void ab initio. I am guided by the binding decision of the court of appeal in the case of *Geeta Bharat Shah & 4 Others vs Omar Said Mwatayari & Another, Court of Appeal at Mombasa, Civil Appeal No. 46 of 2008*, (2009) eKLR where it was held that the judgment could not be sustained as it was entered against a person who was already dead. The court stated as follows :-

In the result, as Bharatkumar Nathalal Shah was already dead by the time the suit was filed, we hold the view that the suit was a nullity and Mr. Oddiaga, is with respect right in conceding the appeal in respect of him on that score. We see no merit in directing that he be allowed to file defence as he is not there to do so and the administrators to his estate cannot in law take over the matter as it was filed after he was already dead.

29. Therefore, the 1<sup>st</sup> respondent cannot rely on the award of the Tongaren LDT and the decree of Kimilili SPM Land 17 of 2010 to support her entitlement over the suit property.
30. However, further and in support of her case, the 1<sup>st</sup> Respondent stated that her late husband (Mwenya Wanaswa Silali) purchased the suit land from Sitini Wabomba. That it was agreed that the said Mwenya Wanaswa Silali would settle the outstanding debt owed to the SFT. It was further her case that the said Sitini Wabomba disappeared before he could transfer the suit land to the Mwenya Wanaswa Silali. In support of her case, she produced a letter dated 04/08/2009 written by the Land Adjudication and Settlement addressed to the District Land Adj/Settlement Officer. The contents of the letter were;

Re: Plot No.279-soysambu Settlement Scheme.

I would like to have the group report, search and documents of ownership pertaining to this property that was purchased by Mwenya Wanaswa Silali in 1966, whose transfer has not been effected.

31. The 1<sup>st</sup> Respondent also produced a receipt of payment dated 01/03/1982 where she stated that her late husband continued to settle the amount owed by the Sitini Wabomba. There is also a letter from



a Senior Settlement Officer summoning Sitini Wabomba (transferor) and Mwenya Wanaswa Silali (transferee). The contents of the letter are;

Re: Transfer of Plot No.279 Settlement Scheme Soysambu.

I am directed by the Chairman Bungoma Land Control Board to request you to appear before the Board on 24<sup>th</sup> May, 1972 at 9:00am meeting when your transfer case will be dealt with.

32. From the foregoing, it emerges that indeed there was a sale or at the least, an intention to transfer the suit land to Mwenya Wanaswa Silali which did not materialize. The 1<sup>st</sup> Respondent in her explanation which this court finds plausible stated that the transfer did not materialize since the said Sitini Wabomba became untraceable.
33. The court of appeal in the case of *Mbuthia Macharia v Annah Mutua & Another* [2017] eKLR discussed the burden of proof and stated thus:
  - (16) “The legal burden is discharged by way of evidence, with the opposing party having a corresponding duty of adducing evidence in rebuttal. This constitutes evidential burden. Therefore, while both the legal and evidential burdens initially rested upon the appellant, the evidential burden may shift in the course of trial, depending on the evidence adduced. As the weight of evidence given by either side during the trial varies, so will the evidential burden shift to the party who would fail without further evidence? In this case, the incidence of both the legal and evidential burden was with the appellant.”
34. Further, the burden of proof in civil cases is on a balance of probabilities as defined in the case of *Kanyungu Njogu Vs Daniel Kimani Maingi* [2000] eKLR that when the court is faced with two probabilities, it can only decide the case on a balance of probability, if there is evidence to show that one probability was more probable than the other.
35. In light of all the above analysis, it is my considered view that the petitioner has not established his claim on a balance of probability. This court therefore finds the 1<sup>st</sup> Respondents’ claim to be more probable

#### **What remedies, if any, are available to the petitioner.**

36. I have stated elsewhere in thus judgment that I do not find the petitioners claim to be one that raises any constitutional issues as it is my considered view the claim is a civil claim which would have been best determined as prescribed by the *Civil Procedure Act* and rules made thereunder. However, in the interest of justice, I have proceeded and determined the same on the merits.
37. For the aforesaid reasons, I find this Petition time barred, an afterthought and an abuse of the court process.
38. The totality of the foregoing is that the petitioner has failed to prove his claim for violation of his constitutional rights as alleged or at all and is therefore not entitled to the declaratory orders sought. Consequently, I find this petition devoid of merits.

#### **Who shall bear costs of the petition**

39. Although costs of an action or proceeding are at the discretion of the court, the general rule is that costs shall follow the event in accordance with the provisions of Section 27 of the *Civil Procedure Act* (Cap 21). A successful party should ordinarily be awarded costs of an action unless the court, for good reasons, directs otherwise. See *Hussein Janmohamed & Sons Vs Twentsche Overseas Trading Co. Ltd* [1967] EA 287. This court finds no good reason why the successful litigants should be denied the costs of this petition. Accordingly, the 1<sup>st</sup> respondents shall be awarded costs of this petition.



**Conclusion.**

40. A fortiori, the petition dated 24/08/2022 be and is hereby dismissed with costs to the 1<sup>st</sup> Respondent.

41. It is so ordered

**DATED SIGNED AND DELIVERD AT BUNGOMA THIS 21<sup>ST</sup> DAY OF NOVEMBER, 2024.**

.....

**HON.E.C CHERONO**

**ELC JUDGE**

**In the presence of;**

1. Mr. Murunga for Petitioner.
2. Respondents/Advocate-absent.
3. Bett C/A.

