



**REPUBLIC OF KENYA**  
**IN THE INDUSTRIAL COURT OF KENYA AT NAIROBI**

**PETITION NO. 51 OF 2014**

**HENRY MORARA ONGWENYI .....CLAIMANT**

**VERSUS**

**THE ETHICS AND ANTI-CORRUPTION**

**COMMISSION .....1<sup>ST</sup> RESPONDENT**

**MUMO MATEMU .....2<sup>ND</sup> RESPONDENT**

**MS. IRENE KEINO .....3<sup>RD</sup> RESPONDENT**

**JANE ONSONGO .....4<sup>TH</sup> RESPONDENT**

**HALAKHE WAQO.....5<sup>TH</sup> RESPONDENT**

**MICHAEL KAMAU MUBEA.....6<sup>TH</sup> RESPONDENT**

**DIRECTOR OF CRIMINAL INVESTIGATIONS .....7<sup>TH</sup> RESPONDENT**

**DIRECTOR OF PUBLIC PROSECUTIONS .....8<sup>TH</sup> RESPONDENT**

**HON. ATTORNEY GENERAL.....9<sup>TH</sup> RESPONDENT**

**RULING**

The application before me for determination is a Notice of Motion dated 28<sup>th</sup> July 2014 and filed on the same date by the Petitioner Henry Morara Ongwenyi under certificate of urgency. He seeks the following orders:-

1. This application be certified urgent and be heard ex parte in the first instance.
2. The purported Summary Dismissal of the Petitioner by the 1<sup>st</sup> Reespondent dated 25<sup>th</sup> July, 2014, Reference number EST. CON/2006/007(26) be and is hereby suspended until the hearing and determination of the Petition herein.
3. The 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup>, and 6<sup>th</sup> Respondent be and are hereby restrained by way of injunction not to fill the position of Deputy Director, Regional Office for which the Petitioner has been interviewed and or his position of Education Officer I (Nyeri) pending the hearing and determination of the Petition herein.

4. The Respondents jointly and severally immediately upon service do furnish the Petitioner and the Court with copies of all material, things or other substance obtained pursuant to the warrant of search obtained under Misc. Case No. 2031 of 2014 dated 21<sup>st</sup> July, 2014.
5. The Respondents jointly and severally immediately upon service do furnish the court and the Petitioner/Applicant all documents, minutes, investigation reports, materials record of procedure and process of investigation, logs and any evidence that lead to the establishment that the Petitioner/Applicant was the sender of the material complained of.
6. The Respondents do, jointly and severally immediately upon service furnish court and the Petitioner/Applicant with all the materials, the confidential documents and statements sent through the anonymous emails, **(kiliohaki@yhoo.com)** and **(hongombali@yahoo.com)**.
- 7.
8. The Respondent furnish the Court and the Petitioner/Applicant with all logs, short text messages (sms), call logs and other material obtained from the Petitioner/Applicant's mobile phone number 0722631973 and 0739200566.

The application is supported by the Petitioner's affidavit sworn on 28<sup>th</sup> July, 2014.

The 1<sup>st</sup> to 6<sup>th</sup> Respondents filed grounds of opposition to the application on 31<sup>st</sup> July 2014. The Respondents also filed a replying affidavit on 7<sup>th</sup> August 2014. The 4<sup>th</sup> Respondent Jane Onsongo filed an additional replying affidavit on the same 7<sup>th</sup> August 2014.

The 7<sup>th</sup>, 8<sup>th</sup> and 9<sup>th</sup> Respondents did not file any response to the application.

In order to put the case into perspective it is important to give a summary of the facts.

The Petitioner Henry Morara Ongwenyi was employed by the 1<sup>st</sup> Respondent's pre-decessor the Kenya Anti-Corruption commission on 6<sup>th</sup> March 2006 as Education Officer III.

The employment was on a renewable fixed term contract of 3 years. The contract was renewed continuously until 14<sup>th</sup> January 2014 when his terms of employment were converted to permanent and pensionable terms in the position of Education Officer I.

On 22<sup>nd</sup> July, 2014 he attended an interview for the position of Deputy Director, Regional Office. He was therefore dismissed from Employment on 25<sup>th</sup> July 2014 on grounds that 11<sup>th</sup> May, 2014 he sent or caused an email to be sent through an email address Kilio haki ([Kiliohaki@yahoo.com](mailto:Kiliohaki@yahoo.com)) to Mr. M. Matemu, the chairperson of the 1<sup>st</sup> Respondent who is also the 2<sup>nd</sup> Respondent in this petition with copies to everyone @integrity.go.ke, the ombudsman, NSSF, among others; that the contents of the email were false, malicious, abusive and gross of the 1<sup>st</sup> Respondent and its leadership; that he further published and circulated confidential documents contrary to Ethics and the law and that the email was published by Weekly Citizen further damaging the image of the 1<sup>st</sup> Repondent in the eyes of members of the public. The letter of dismissal goes on to state that on 14<sup>th</sup> July 2014 the Petitioner sent another anonymous email using email address hongo mbali ([hongombali@yahoo.com](mailto:hongombali@yahoo.com)) to Mr. Matemu among others whose contents were false, malicious and intended to injure the good reputation of the members and senior staff of the Respondent. The 1<sup>st</sup> Respondent thereafter enlisted the services of the Criminal Investigations Department to investigate the source of the emails.

According to the Replying Affidavit of Mary Kamaara, the Respondent's Deputy Director in charge of Human Resources, the investigations established that the emails were sent by the Petitioner. Following the findings of the investigations the Claimant was summarily dismissed on 25<sup>th</sup> July, 2014.

The Notice of Motion was first heard ex-parte by my sister Justice Mbaru on 31<sup>st</sup> July, 2014 when she

issued an interim injunction restraining the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> Respondents from filling the position of Deputy Regional Director, Regional Office for which the petitioner was interviewed and the Petitioner's position of Education Officer I (Nyeri).

The application was argued before me on 7<sup>th</sup> August, 2014. Mr. Ndubi together with Mr. Kwame instructed by Kwame & Associates Advocates appeared for the Petitioner/Applicant. Mr. Ouma appeared for the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 5<sup>th</sup> and 6<sup>th</sup> Respondents while Mr. Owala appeared for the 4<sup>th</sup> Respondent. There was no appearance for the 7<sup>th</sup>, 8<sup>th</sup> and 9<sup>th</sup> Respondents.

Mr. Ndubi submitted that on 22<sup>nd</sup> July, 2014 the Petitioner who was stationed at Nyeri attended an interview in Nairobi for the position of Deputy Director, Regional Office. After the interview the Petitioner was approached by a Mr. Hannington Chumba, a CID Officer and another unnamed CID officer who served him with a warrant of search authorizing them to search the Petitioner's houses and offices and take for scrutiny any electronic equipment. The warrant of search had been issued by the Nairobi Chief Magistrate under Misc. Case No. 2030 of 2014. The affidavit of Mr. Chumba in support of the application for the search warrant stated that he was investigating a case of unauthorized access to computer data contrary to section 83U of Kenya Information and Communications Act and a threat to kill contrary to section 225 of the Penal Code as the Petitioner had sent threatening emails to members of the Ethics and Anti-corruption Commission. The CID officers searched the Petitioner's houses in Buruburu, Nairobi and Nyeri where they found nothing. They proceeded to his office in Nyeri where they took a computer hard drive and 2 flash disks. That no return has been made to court on the warrant according to the Criminal Procedure Code. On 24<sup>th</sup> July 2014 the Petitioner was summoned to the headquarters. He travelled to Nairobi on 25<sup>th</sup> July, 2014 where he was served with the letter of dismissal.

Mr. Ndubi submitted that the Petitioner came to court as soon as he could, on 28<sup>th</sup> July, 2014 which was a Monday, having been dismissed on Friday the 25<sup>th</sup> of July, 2014. He submitted that the 1<sup>st</sup> to 6<sup>th</sup> Respondents were grossly unfair to the Petitioner, they violated section 41 of the Employment Act which requires that an employee be notified of the intention to terminate his employment and section 44 which provides for grounds of dismissal. The 1<sup>st</sup> Respondent also violated its internal procedures. He submitted that the replying affidavit of Ms. Kamaara does not contain a report from the CID who investigated the case. That since the 1<sup>st</sup> to 6<sup>th</sup> Respondents have not submitted any evidence to support the reasons for the Petitioner's dismissal, the only reasons for the dismissal is malice. That the 1<sup>st</sup> Respondent, being a constitutional body with the mandate to deal with abuse of power and corruption, and which should be beyond reproach, conducted itself with unbelievable impunity. That the 1<sup>st</sup> Respondent breached Articles 47(2) and 50 (1) of the Constitution. That the 1<sup>st</sup> to 6<sup>th</sup> Respondents owe a duty to the Petitioner to discharge their mandate, that they acted as judges in their own cause as they are the aggrieved persons. That they should have subjected the matter to an independent body to investigate.

On the replying affidavit of the 4<sup>th</sup> Respondent Mr. Ndubi submitted that it confirmed that the Petitioner's case was not discussed by the Commission. Mr. Ndubi urged the court to grant the orders suspending the dismissal as the 1<sup>st</sup> Respondent is a public body and not a profit making enterprise and is therefore not likely to suffer any damage while for the Petitioner damages will not be adequate remedy as he will be unable to get any other public job since he would need a recommendation from the former employer in the public service. He submitted that the substance of the claim has not been denied, that the termination was so manifestly unfair and there is a high probability of success of the petition. That the balance of convenience is in favour of the Petitioner.

In support of the prayer to stay the filling of the position for the Deputy Director, Regional office, Mr. Ndubi submitted that no evidence has been placed before the court to show that the Claimant did not qualify for the position, that the affidavit of Ms. Kamaara is contradictory as she stated that the results of the interview had not been released while at the same time stating that the Claimant was not successful in the interview. Mr. Ndubi urged the court to grant the application.

Mr. Ouma for the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 5<sup>th</sup> and 6<sup>th</sup> Respondents opposed the application. He relied on the grounds of opposition filed on 31<sup>st</sup> July, 2014 and the Replying Affidavit of Mary Kamaara sworn on 6<sup>th</sup> August 2014. He submitted that the 1<sup>st</sup> Respondent is an employer like any other and should not be treated as a special employer as suggested by Counsel for the Petitioner. Mr. Ouma submitted that the Petitioner was not successful in the interviews for the position of Deputy Director, Regional Office, that there were 13 candidates for 8 positions and that the other candidates who would be prejudiced by grating of the orders are not party to these proceedings as they have not been enjoined, that it is trite law that all parties against whom orders are sought must be joined. He urged the court to set aside the interim orders restraining the 1<sup>st</sup> Respondent from filing the position. He further submitted that the prayer was for stay pending hearing of the petition and not inter-parties hearing of the application. He submitted that prayers 4, 5, 6 and 7 related to the proceedings in the Magistrates Court which granted the warrants and the proper procedure is to appeal against the orders or apply for the setting aside or review of the orders.

He further submitted that for an applicant to get the orders prayed for he must show that he has a prima facie case and is likely to suffer irreparable damage that cannot be compensated by damages. That if the court is in doubt it will determine the matter on a balance of convenience. He referred to the case of Gladys Boss Shollei vs. Judicial Service Commission (2014) eKLR where in Justice Nduma restated the principles. He submitted that the applicant has failed to establish all the principles in *Giella vs. Cassman Brown*.

Mr. Ouma further submitted that the court is dealing with this matter as an interim prayer and must be careful not to reach final conclusions and make final findings. He relied on the decision of Justice Ibrahim (as he then was) in the case of *Muslims for Human rights (Muhuri) and 2 others vs. Attorney General & 2 others* {2011} eKLR as quoted in the case of *Martin Nyaga Wambora vs. speaker County Assembly of Embu* (2014) eKLR. He observed that in prayer 7 of the petition the Petitioner has prayed for damages. That is an admission that the applicant can be compensated by way of damages.

Mr. Ouma submitted that the applicant made undertakings in his employment contracts to serve with high integrity and always act in the best interests of his employers. That the applicant signed a confidentiality agreement not to divulge any information acquired in the course of employment with the 1<sup>st</sup> Respondent without written authority. He submitted that on 11<sup>th</sup> May, 2014 and 14<sup>th</sup> July, 2014 the 1<sup>st</sup> Respondent received emails that were insulting, disparaging and likely to bring it into disrepute together with the 2<sup>nd</sup> to 6<sup>th</sup> Respondents. That the emails caused great concern to the Respondents. That by letter dated the 26<sup>th</sup> May, 2014 the 1<sup>st</sup> Respondent requested the CID to conduct investigations to find out the source of the emails and the CID informed the 1<sup>st</sup> Respondent that it is the Petitioner who originated the emails. Based on the report of the CID the 1<sup>st</sup> Respondent made the determination that the applicant was originator of the emails and had breached his contract and confidentiality agreement and summarily dismissed him under section 44 of the Employment Act. That Sub-section 3 and 4 of Section 44 authorized an employer to summarily dismiss an employee who has fundamentally breached his contract. Mr. Ouma further submitted that Section 11(6)(d) of the Ethics and Anti-corruption Act gave the 2<sup>nd</sup> to 6<sup>th</sup> Respondents the obligation to ensure there is discipline among employees. That the issue as to whether this dismissal was unprocedural must await the hearing of the case.

Mr. Ouma relied on the decision of Justice Rika in the case of *Alfred Nyungu Kimungi vs. Bomas of Kenya* (2013) eKLR where the Judge made a finding that reinstatement is a final determination and one that is normally granted on a full hearing, and further that the court should be careful not to take over and exercise management duties and should be slow at intervening at this stage.

Mr. Ouma submitted that employment relationships are symbiotic and reciprocal, and where one party acts maliciously they ought not be granted equitable remedies. He submitted that Justice Rika in the *Kimungi* case stated that reinstatement should only be granted in very rare cases, where damages would not be adequate compensation. He submitted that the applicant in this case has failed to prove that ground, and that no exceptional circumstances have been shown in this case.

Mr. Ouma also submitted that the applicant was aware of the investigations against him and assisted the CID in the investigations.

On the letter of transfer alleged to have been proof of malice against the applicant Mr. Ouma submitted that the applicant had not challenged the transfer and that the appeal process had not been exhausted.

On the issue of convenience Mr. Ouma submitted that the court should not force a union between the parties, that the constitution does not guarantee employment, but fair labour practices and that the applicant should not be treated with favour vis-à-vis other public officers. He submitted the applicant must prove his case on a balance of convenience and that the fact that the Respondent has not denied the allegations does not mean that it was in admission.

Mr. Owala for the 4<sup>th</sup> Respondent associated himself with the submissions of Mr. Ouma. He submitted that in her replying affidavit the 4<sup>th</sup> Respondent only stated she had not participated in any meeting to discuss the discipline of the applicant but did not allege that no meeting took place.

I have considered the application and the affidavit in support thereof together with the documents referred to therein, the replying affidavits and the annexures thereto, the submissions by counsel for the parties, the authorities referred to and the relevant law. In my opinion the issue for determination is whether the Applicant has made out a case for grant of the orders sought in the application.

The Petitioner seeks several orders. The first is the suspension of his letter of dismissal until the hearing and determination of his petition while the second prayer is the restraining of the 1<sup>st</sup> to 6<sup>th</sup> Respondents from filling the position of Deputy Director, Regional Office. There are other prayers for furnishing the petitioner with particulars as prayed in prayer No. 4, 5, 6 and 7.

I will deal with the last 4 prayers first.

Under Article 35, 47, 48 and 50 of the Constitution, the Petitioner has a right to information, fair administrative action, access to justice and a fair hearing. The Petitioner will be unable to exercise all these rights unless he has access to the information he seeks in prayers 4, 5, 6 and 7 of his application. He requires the information to effectively prosecute this petition. Some of this information has already been supplied in the pleadings filed on behalf of the Respondents but there are others which have not been supplied.

I therefore order that the Respondents and specifically the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> Respondents do furnish the Petitioner with all materials, things or substances obtained pursuant to the warrant of search issued in Misc. Case No.2032 of 2014; all documents, minutes, investigation reports, materials, logs and evidence that established that the Petitioner was the sender of the two email addresses in respect of which he was dismissed, that is [kiliohaki@yahoo.com](mailto:kiliohaki@yahoo.com) and [hongombali@yahoo.com](mailto:hongombali@yahoo.com); and all call logs and other information obtained from the Petitioner's mobile phone numbers 0722631973 and 0739200566.

Turning to prayer No. 2, the Petitioner prays for an order of injunction to restrain the 1<sup>st</sup> to 6<sup>th</sup> Respondents from filling the position of Deputy Director, Regional Office. My understanding from the pleadings and documents filed in court is that the advertisement for Deputy Director, Regional Offices was for 8 posts. This is reflected at page 31 of the bundle of documents attached to the replying affidavit of Mary Kamaara sworn on 6<sup>th</sup> August 2014. If the Claimant was successful in the interview, he would only fill one of the 8 positions advertised. In the same affidavit, Mary Kamaara depones that the results of the interview have not been released and further that she is aware that the Petitioner was one of 13 candidates interviewed for the position. She also deponed that the Petitioner was not successful.

I will ignore the statement in the affidavit to the effect that the Petitioner was not successful as this fact can only be ascertained if the results of the interview are released.

Assuming that the Claimant is among 8 successful candidates, would it be fair to restrain the 1<sup>st</sup>

Respondent from filling all 8 positions?. I do not think so. Neither do I think the 1<sup>st</sup> to 6<sup>th</sup> Respondents argument to the effect that all the candidates should be enjoined if the orders were to be issued is correct. I think the proper position is that none of the 8 candidates has been appointed to that position. Their rights to the appointment had not crystalized. Such right would only be justiciable after the 8 successful candidates have been appointed and have accepted such appointment or if the complaint was in respect of discrimination in terms of section 5(3) of the Employment Act which provides that “No employer shall discriminate directly or indirectly against an employee or prospective employee or harass an employee or prospective employee....”. In this case, the Petitioner cannot claim the right to preservation of a position that as yet does not belong to him. Neither can the other applicants for the position be enjoined as they do not have any right capable of being infringed.

Secondly and more importantly it is not the duty of this court to interfere with the internal operations and management of employers. The court cannot stop an employer from filling vacant positions on the basis that one person may be locked out.

Thirdly, for a party to succeed in a claim for interim injunction he must prove that he has a prima facie case, that he will suffer irreparable harm and that damages will not adequately compensate him. This was the decision in Giella vs. Casman Brown case.

In the present case, the Claimant has not shown that he had a right capable of being protected by the court as he had not been appointed to the position he wishes to be reserved for him. Secondly, even if he were successful and had a right, the court would not unduly interfere with the operations of the 1<sup>st</sup> Respondent as to stop it from recruiting all 8 positions because one of the candidate’s rights is likely to be breached.

I therefore find that the Claimant has not proved that he has a right or interest capable of being preserved by way of an injunctive order against the 1<sup>st</sup> to 6<sup>th</sup> Respondents. The prayer is therefore declined.

I now turn to prayer (1) one, which in my opinion is the most critical to the Petitioner. The Petitioner prays that his summary dismissal be suspended until the hearing and determination of the petition. This would have the effect of re-instating the Petitioner back to employment pending the hearing and determination of the Petition. The Petitioner’s counsel has made elaborate and what I would consider valid grounds for re-instatement.

The 1<sup>st</sup> to 6<sup>th</sup> Respondents have not denied that they obtained warrants of search from the Chief Magistrates court by making false statements. This is evident from the Affidavit of P.C Hannington Chumba who deponed in his affidavit sworn in support of the application for warrant of search (deponed on an undisclosed date) in June 2014 to the effect that he was investigating a criminal case relating to an offence of (i) unauthorized access to computer data contrary to section 83U of the Kenya Information and Communication Act and (ii) threat to kill contrary to section 225 of the Penal Code. Both grounds are not borne by the facts of this petition.

The 1<sup>st</sup> to 6<sup>th</sup> Respondents have also not denied that the Claimant was not subjected to disciplinary process as provided by both the Employment Act and the 1<sup>st</sup> Respondent’s Human Resource Manual. Indeed in the Replying Affidavits of both Ms. Mary Kamaara and Jane Onsongo the 4<sup>th</sup> Respondent, it is admitted that the Petitioner was not subjected to any disciplinary process.

The Industrial Court Act gives this court powers to give interim preservation orders including injunctions in cases of urgency. The Act also empowers this court to order reinstatement of an employee and to award damages.

The Employment Act provides at Section 49(3) for reinstatement or re-engagement of an employee only where termination or summary dismissal is unfair. In my opinion this presupposes that both the employee and the employer are heard and a determination is made that the termination or dismissal was unfair, and the court has taken into account all the circumstances provided for under section 49(4) before making the order for re-instatement or re-engagement. It is my opinion that it is due to this power of reinstating the

employee to his position before the termination or dismissal **“and treat the employee in all respects as if the employee’s employment had not been terminated”**, that the courts are reluctant to reinstate employees before the case is fully heard and determined.

In the present case, the Petitioner has made an alternative prayer for damages at prayer 7 as follows: -

**“7. In the alternative, an order that in the event the 1<sup>st</sup> Respondent does not wish to retain the services of the Petitioner, the 1<sup>st</sup> Respondent does pay to the Petitioner all salary and emoluments that would be due had the Petitioner served the full term to retirement at age sixty (60)”**.

The courts have had occasion to consider similar applications and in the case of *Joab Mehta Oudia vs. Coffee Development Board of Trustee (2014) eKLR*, Justice Rika stated that **“Reinstatement of an employee is ordinarily a substantive remedy, to be given after the full hearing of the parties. Instead of seeking interim reinstatement, the Claimant should seek to be heard in full, utilizing the accelerated hearing procedure that is available in the Industrial Court”**.

Justice Rika cited with approval *Industrial Court Cause Number 620 of 2013 between Alfred Nyungu Komungui vs. the Bomas of Kenya and Cause Number 1200 of 2012 between Professor Gitile Naitule vs. University Council Multimedia University College* both of which declined to reinstate an employer through interlocutory proceedings.

In the same case, Justice Rika went further to state that **“to grant the orders sought would mean the Court has entered the employment place, exercising the management prerogative on behalf of the employer. The Court cannot stay termination of the employer’s decision. It would amount to the Court unduly interfering with a decision already made by the Management within its discretion. It is likewise not proper that the Court bars the Respondent from recruiting to fill a vacant position, either permanently or provisionally. The Respondent is presumed to know that in doing so, there is the possibility that the Court may issue the Claimant the prayers sought in the claim, including the prayer for reinstatement. Court have ruled that a rush to filling of a position that has fallen vacant upon dismissal of that position’s holder, does not render the remedy of reinstatement impracticable. It is always advisable that the employer has a contingency arrangement, in case such an order issues, particularly in jobs that are of a singular nature at the workplace. There is no justification for interim reinstatement, stay of termination or orders barring the Respondent from proceeding to fill the position that was held by the Claimant. The law presumes that the wronged employee would be in a position to move the Court expeditiously on the merit, and if deserving, have the substantive orders of reinstatement or re-engagement. Nothing is lost to the Claimant as the law allows him to receive back wages in addition to these remedies.”**

Again in the case of *Centre for Rights Education & Awareness (CREAW) & 7 others v. Attorney General* **Petition No. 16 of 2011** (NBI) Justice Musinga restated the principles which the court ought to take into account in the exercise of its discretion in deciding whether or not to grant conservatory orders as follows:-

**“At this state, a party seeking a conservatory order only requires to demonstrate that he has a prima facie case with a likelihood of success and that unless the court grants the conservatory order, there is real danger that he will suffer prejudice as a result of the violation or threatened violation of the constitution”**.

I agree with both the decision of Rika J and Musinga J. in the two cases. In the present case, the Petitioner has two possible rights; the right to reinstatement or re-engagement, as well as the right to damages. He has claimed both in his petition as alternative remedies. This means that although he has a prima facie case that has high chances of success, the court will have to fully hear his petition before it can demine, if he is successful, which of the alternative remedies he has sought should be granted to him.

For the foregoing reasons, I must decline the Petitioner’s prayer for suspension of his dismissal.

The result is that I decline to grant prayers 2 and 3 of the Petitioner's application dated 28<sup>th</sup> July, 2014 but grant prayers 4, 5, 6 and 7 of the application. I however order that the petition be fixed for hearing on priority basis.

Costs shall be in the cause.

Delivered and Dated in open court this 30<sup>th</sup> day of September, 2014.

**HON. LADY JUSTICE MAUREEN ONYANGO**

**JUDGE**

**In the presence of:**

Mr. Ouma for the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 5<sup>th</sup> and 6<sup>th</sup> Respondents

Mr. Ndubi for Petitioner

No appearance for 4<sup>th</sup> Respondent