Chebii v Republic & another (Criminal Revision Application E003 of 2024) [2025] KEHC 6907 (KLR) (27 May 2025) (Ruling)

Neutral citation: [2025] KEHC 6907 (KLR)

REPUBLIC OF KENYA

IN THE HIGH COURT AT KABARNET

CRIMINAL REVISION APPLICATION E003 OF 2024

RB NGETICH, J

MAY 27, 2025

BETWEEN

VINCENT CHEBII ..... APPLICANT

AND

REPUBLIC ..... 1ST RESPONDENT

AMBROSE KIBET ..... 2ND RESPONDENT

RULING

1. The Applicant has moved this court vide an application dated 4th December,2024 brought under the provisions of Sections 362, 364, 365 and 367 of the *Criminal Procedure Code*, Section 4 of the *Fair Administrative Action Act*, Articles 19,20,21,23,25,27,35, 47,50,157,159,165 of *the Constitution* of Kenya 2010 seeking for orders:-

    i. Spent;

    ii. That pending the hearing and determination of this application and/or until further orders, the court reviews, stays and or sets aside its orders/decision made on 13th November,2024 reinstating the criminal case number Kabarnet MCCR/E300/2024 before the subordinate court;

    iii. That this Honourable court be pleased to review, stay and set aside its orders issued on 13th November,2024;

    iv. That the Honourable Court be pleased to grant any order it may deem fit in the interest of justice.

2. The Application is founded on the grounds that by way of an application for revision on 29th April,2024, the 2nd respondent sought for revision of the orders of discharge under section 87(a) in the

lower court in the case Kabarnet MCCR/E300/2024, before this court and on 13th November,2024 this court in revision set aside the discharge in the lower court and ordered the case be reinstated.

3. That the revision orders issued by the court on 13th November,2024 were prejudicial to the accused in that they were issued without him being heard contrary to the provisions of sections 364 (2) and 193 of the Criminal Procedure Act, Cap 75 and the rules of natural justice.

4. That there is an error apparent on the face of the record on the ruling and order issued by the court since the issue as to whether the learned trial magistrate should have discharged or acquitted the applicant is not in the province of revision but appeal. That further, the applicant lacked legal capacity to bring an application for revision as provided under section 364(5) and 348A of the *Criminal Procedure Code*.

5. That there was no demonstration shown that the learned magistrate who discharged the applicant exercised her discretion improperly or injudiciously as the applicant failed to disclose any illegality or impropriety attributable to the trial court to warrant the exercise of the High Court's power of revision as the discharge was sought by the prosecution in the Exercise of their mandate.

6. That the prosecution in the trial court acted on and exercised its statutory and constitutional powers to prevent the abuse of the legal process and in the public interest after establishing that the complainant was using the criminal process for ulterior motives thus rightly and correctly applied to withdraw the charges to avoid occasioning a failure of justice and which the learned magistrate found proper.

7. That the prosecutor withdrew the case on 15th April, 2024 under section 87 (a) of the Criminal Procedure code in the presence of the 2nd respondent when the case was called up before court, contrary to the claims by the 2nd respondent.

8. That the applicant was charged and thereafter discharged on 15th April,2024 under section 87 (a) on application by the prosecution on facts established by the prosecutor and which are on the court record.

9. That by way of an application for revision on 29th April,2024, the 2nd respondent sought for revision of orders before this court without giving notice to the applicant herein as required.

10. That on behalf of the state, the 1st respondent appeared and submitted that they exercised their prosecutorial powers as provided for under the law and constitution to withdraw the case based on information they received and analyzing the facts of the case before them which merited withdrawal.

11. That for all the time however, the applicant was kept in the dark as to the proceedings by the 2nd respondent, contrary to the provisions of section 364 (2) of the CPC, Cap 75.

12. That the 2nd respondent is guilty of material non-disclosure and or concealment of material particulars and misrepresentation of the facts leading to the withdrawal of the case which is an abuse of the process of court.

13. That it was only when the case came up for mention in court before the magistrate assigned the case for mention on 3rd December,2024 that the accused learned from his then counsel on record who was in court for different matters that the case had been reinstated and was coming up for mention and it is fair and just that the revision orders be reviewed, stayed, varied and or set aside in so far as the same purports to take away the rights of the applicant to a fair trial and are oppressive and not in the best interests of justice.

14. That unless the ex-parte revision orders made on 13th November,2024, reinstating the criminal case is reviewed, stayed and or set aside, the applicant will suffer prejudice and injustice as he would be dragged

into a case that was maliciously instituted and for ulterior motives by the 2nd respondent to harass and exert pressure on him on a land dispute with clear avenues for resolution of such grievance.

15. The application is supported by an affidavit sworn by the Applicant Vincent Chebii who avers that he was charged with the offence of threatening to kill contrary to Section 313 of the *Penal Code* and an alternative charge of malicious destruction of property c/s 339 of the PC in the case Kabarnet MCCR/E300/2024.

16. He avers that he was thereafter discharged under section 87 (a) on application by the prosecution on facts demonstrated by the prosecution and by way of an application for revision on 29th April,2024, the 2nd respondent sought for revision of the orders of discharge under section 87(a) in the lower court in the case Kabarnet MCCR/E300/2024, before this court and which orders were granted on 13th November,2024 and the orders issued were prejudicial to the him in that they were issued without him being heard contrary to the law and the rules of natural justice.

17. That he wholly associates with the prosecution submissions that they exercised their prosecutorial powers as provided for under the law and constitution to withdraw the case based on information they received and analysis of the facts of the case before them which merited withdrawal.

Response

18. The 1st Respondent in opposing the application dated 4th December,2024 filed grounds of opposition raising the following grounds:-

    i. That this Honourable court lacks jurisdiction to entertain the application as it is functus officio having pronounced itself in its ruling dated 13th November,2024.

    ii. That the application is misplaced, incompetent, lacking in merit, frivolous, scandalous, vexatious as it is an abuse of the court process.

    iii. That the application has been brought in bad faith and ought to be dismissed in its entirety.

19. The 2nd Respondent in response to the Application filed a preliminary objection on the points of law on the following grounds:-

    i. That this Honourable Court lacks the jurisdiction to hear and determine this application i.e. the application dated 4thDecember, 2024 in that, by handling it will amount to sitting as an appellate court on its own decision/ruling.

    ii. That this Honourable, having made a ruling arising from an application for review/revision is now Functus Officio and cannot review its own orders/ruling made on 13thNovember,2024 and the only available avenue for the applicant should be the court of Appeal and not this Honourable Court.

    iii. That this application is bad in law and an abuse of the due process of the court.

20. The 2nd Respondents prays that this application lacks merit and should be dismissed with costs. The application was canvassed by way of both written and oral submissions.

Submissions By Applicant

21. The Applicant submit that the Respondents filed Preliminary Objection and grounds of opposition dated 20th January,2025 and 3rd February,2025, respectively to the application dated 4th December,2024.

22. The applicant submits that what constitute preliminary objection is now well settled in the celebrated case of Mukisa Biscuit Company V West End Distributors Limited. That the Preliminary Objection raised by the Respondents herein relates to a plea of jurisdiction based on provisions of the law.

23. Counsel submit that the same is raised on points of law that emerge from the pleadings filed by the parties and that the P.O is not merited as this court has jurisdiction to review its revisionary orders issued on 13th November, 2024 on the following grounds; it is quite glaring from the provisions of section 364 and 365 of the *Criminal Procedure Code* (CPC), Cap 75, and it is evident the proceedings which led to the making of the orders of 13th November,2024, offended and were contrary to the statutory provisions of section 364(2) and 365 of the criminal procedure code.

24. That an unconstitutional, illegal and or unprocedural act has no force of law. Counsel submit that the court must proceed lawfully and procedurally and must protect the rule of law and the administration of justice to all in equal measure.

25. Further, that the application is brought under the provisions of Article 165(3) of *the constitution*, among other provisions of the law they have invoked which are the general powers of the High Court, which confer upon it original, unlimited jurisdiction in criminal and civil matters as the instant case.

26. It is their submission that whereas the *Criminal Procedure Code* (CPC) has no express provisions for the court to review its orders, they rely on the provisions of Article 165(3), (6) and (7) of *the Constitution* to intervene in this respect to grant the review orders in the application herein. They submit that under the cited Articles of *the Constitution* and its inherent jurisdiction; this Court has unlimited competency to hear and determine the present application because of its unique nature and the court's unique inherent jurisdiction, and this position pertains notwithstanding anything in the *Criminal Procedure Code* that may delimit or disqualify the application from being heard.

27. That it is the more reason for the court to invoke its inherent jurisdiction and do justice, in the face of the glaring non-compliance with the law as above cited during the initial proceedings leading to the orders herein. The right to be heard is absolute and is a basic rule of natural justice.

28. Counsel further submit it is trite that where there is a divergence or conflict between a statutory provision and a constitutional provision, the constitutional provision prevails in accordance to the doctrine of constitutional supremacy under Article 2 of *the Constitution*.

29. That it is also trite that a court can vary or review its own orders if new matters are brought to its attention that were not within its knowledge when the order sought to be varied was granted. That what the court cannot do however is to review or vary an order of a superior court to it and that is why; in doing substantive justice, the court would only invoke the inherent powers conferred to it by *the Constitution*.

30. They submit that in their application, they have pointed out the egregious non-compliance with the statutory provisions of section 364(2) of the CPC as well as laid out a factual chronology of the case at hand plus the concealment of material facts by the 2nd respondent in their affidavit, all new matters that were not brought to the attention and notice of the court before it made its revision orders of 13th November,2024 and submit all these suffice for the court to invoke its constitutional inherent jurisdiction to review the orders issued on 13th November,2024 in the circumstances in the interest of justice.

31. Counsel further submit that the supervisory and inherent jurisdiction grants broad and far-reaching express and unlimited powers to the High Court to do justice and they cannot in the same breath be limited by the statutory provisions of the CPC on Revisionary Jurisdiction, particularly in a case

that would result in a failure or miscarriage of justice, which the court in its supervisory jurisdiction cannot allow to stand and relied on the case Criminal Revision No.218 of 2015- Director of Public Prosecutions vs. Betty Njoki Mureithi [2016] eKLR, where the court reviewed its own orders.

32. That the position held by the respondents therefore that this court is functus officio is not supported by the holding in the cited case. That the main ground raised by the applicant is that he was not heard in defence as provided under section 364(2) and in keeping with the rules of natural justice, as well as the concealment of material facts by the 2nd respondent, before the ruling was issued reinstating the case at the lower court.

33. That it is the settled position of the law that no decision that would affect a party's rights should be made without giving that party an opportunity to be heard. That in their case, this finds expression in section 364(2) and 365 of the CPC. They further rely on the case Speaker of the National Assembly vs. James Njenga Karume [1992] eKLR, bears reciting, where the Court of Appeal held as follows:

> "....in our view, there is considerable merit in the submission that where there is a clear procedure for the redress of any particular grievance prescribed by *the Constitution* or an Act of Parliament, that procedure should be strictly followed "

34. That the provisions of section 364(2) of the CPC in this case were not strictly followed by the respondents in their attempt to redress their grievance against the applicant as required and it is thus their submission that in the face of such manifest injustice and or error of law and non-compliance with statutory obligation, this court cannot shut its doors to the applicant, a second time. They thus beseech the court to invoke its inherent constitutional jurisdiction to do justice in the circumstances by reviewing the orders of 13th November,2024 and rely on the case of Attorney General vs. Ryan (1980) 2 All ER 608, and similarly, in Dickson Ngigi Ngugi vs. Commissioner of lands (Civil Appeal No 297 of 1997(UR), where the Court of Appeal also observed that the right to a hearing before any decision is taken, is a basic right and it cannot be taken away even by the hopelessness of one's case.

35. They submit that the jurisprudence that emerges from the above decisions makes the point that the right to be heard is a fundamental one that should not be derogated from where the decision to be made would affect a person's rights.

36. That the emphasis is that a decision should not be taken without hearing a party if that decision would affect the rights of the party not heard. That indeed the failure to hear a person before a decision is made amounts to condemning that person unheard, a clear violation of Article 50 of *the Constitution*.

37. That the application in this case challenges the regularity, legality and constitutionality of the revision orders entered against the applicant. That in the matter, the court issued an order to reinstate the case against the applicant, which was a decision affecting the applicant's rights to procedural fairness to be heard and to a fair trial, among others and there was thus error and a failure of justice in the circumstances.

38. They submit it does not now lie in the mouths of the respondents to say that the applicant cannot be heard in this respect and that the court is now functus officio, when in the initial proceedings they proceeded blissfully without involving the applicant and reminding themselves of the clear import of section 364(2) of the criminal procedure code, a mandatory statutory provision.

39. They submit that the overriding objective of the court is to ensure that one party's right should not defeat or derogate the right of another party and the court is therefore empowered to carry out a balancing exercise to ensure justice and fairness.

40. They thus submit the Respondents Preliminary Objection (P.O) on the jurisdiction of the court is not merited on the grounds stated and their arguments can only be made in a substantive hearing vis a vis the grounds relied on in support of the application.

41. In conclusion, counsel for the applicant submit that the Respondents have failed in their preliminary objection and urge the court to review its orders issued on 13th November,2024 and proceed to determine the application dated 4h December,2024 on its merits.

Submissions By Respondent

42. The 1st Respondent submitted orally that they are opposed to the application filed by the Applicant and they rely on their grounds of opposition filed on 3rd February,2025. They submit that Section 362 of the *Criminal Procedure Code* (CPC) gives the high court powers to review lower court's decision. That the purpose for review is to ensure correctness, legality and proprietiness of the findings, sentence and order. That what is before court is an application not challenging the orders of the subordinate court but seeking review of what this court has heard and determined.

43. It is their submission that this court has been rendered functus officio having issued its orders and if the Applicant was not satisfied with the orders of this court, he was to file an appeal with the court of Appeal. They submit that this court lacks jurisdiction to entertain this application and relied on the case of Owners of The Motor Vessel"Lillian S" V Caltex Oil (Kenya Limited 1989) eKLR where the court held that jurisdiction is everything and without it, the court has no power to make any step or move and submit that the application filed by the Applicant is in the wrong forum and ought to be dismissed in its entirety.

44. The 2nd Respondent submits that the application filed by Vincent Chebii (Current Applicant) dated 4th December, 2024 lacks in merit and ought to be dismissed with costs because of the reasons that the ruling which the Applicant seeks to be reviewed was extracted and transmitted to the lower court wherein, the Marigat Criminal Case No. E300 of 2023 was reinstated and re allocated to court No. 2 before Honourable C.T. Ateya PM. That meanwhile, the applicant herein Vincent Chebii was summoned and the case was set down for hearing on 4th March 2025 but adjourned to 1st April, 2025.

45. That upon learning that the matter has been reinstated, the applicant herein filed the application for review dated 4th December, 2024 whereby he named himself as the Applicant, the Republic as the 1st Respondent and Ambrose Kibet as the 2nd Respondent seeking the orders herein.

46. They submit that it is not worthy to state that they are not aware of a Criminal Case No. Kabarnet MCCR /E300/2024 because the case is already reinstated is Marigat MCCR/E300/2023.

47. That upon being served with the application herein, the 2nd Respondent (Ambrose Kibet) filed a notice of Preliminary Objection dated 20th January, 2025, while the 1st Respondent filed grounds of apposition opposed the Applicant's application for review.

48. On 13th March, 2025, this Honourable Court directed, with the consent of the parties, to dispose off the notice of Preliminary Objection by way of written submissions and the applicant having filed his submissions, the respondents were granted 7 days leave to prepare and file theirs hence, these submissions.

49. They submit that the issues for Determination are:-

    i. Whether this Honourable Court have the Jurisdiction to entertain, hear and determine this application or it is Functus Officio.

ii. Whether this application has merit.

50. On whether this Honourable Court has the Jurisdiction to entertain, hear and determine this application or is it Functus Officio, they submit that Functus Officio has been defined in the Black's Law Dictionary 9th Edition as;

> "…. (having performed his or her office)…" (of an officer or official body) without further authority or legal competence because the duties and functions of the original commissions have been fully accomplished…"

51. That further to the above definition several courts in our Country have expanded and/or clarified on the same in the case of Telkom Kenya Limited =Versus= John Ochanda (Suing on His Own Behalf and on Behalf of 996 Former Employees of Telkom Kenya Limited (2014) eKLR and also In the Supreme Court in Raila Odinga And 2 Others =Versus= I.E.B.C & 3 Others (2013) eKLR.

52. That going by the definition provided hereinabove, they submit that this court is now functus officio on the following grounds;

i. This request for review or revision is similar to the one which was made by the former applicant and now 2nd Respondent Ambrose Kibet vide his application dated 29th April, 2024.

ii. The request for review made by the current 2nd Respondent was heard inter parties, submissions filed by both sides in the former application by the current 2nd Respondent and the prosecution (current) 1st Respondent.

iii. Thereafter a detailed ruling was delivered on 13th November, 2024.

iv. The ruling was certified and transmitted to the lower court whereby it was perfected through reinstatement of the Criminal Case File No. E300/2023 MARIGAT SPM court.

v. The lower court case has now been fixed for hearing on 1st April, 2025.

vi. The ruling dated 13th November, 2024 was delivered by this court and the current application has again been filed in this same matter and it is before this court.

vii. The ruling was a final order after both parties were heard.

53. That the salient features herein are, the application was seeking revision or review, both parties were heard, both parties were given room to file written submissions, a ruling was delivered on 13th November, 2024 on merit and after the delivery of the ruling, the same was transmitted to the lower court and has already been implemented i.e. the lower court file has been reinstated and allocated to court No. 2 for hearing and determination and is set for hearing on 1st April, 2025 in Marigat Mobile Court. That in fact, it came up for hearing on 4th March, 2025 but it was adjourned because the present applicant sought for an adjournment citing this pending application.

54. They submit that the former application having been subjected to the entire process as enumerated above, means that the powers of revision have been fully exercised by this Honourable Court and hence, cannot be called again to revise its own ruling which has been arrived out of a revision application.

55. That the above circumstances fall within the ambit of the Functus Officio doctrine and as such, this Honourable court is precluded from reopening such an application after hearing all the parties and then rendering an order or ruling. That it means that, this Honourable Court lacks the jurisdiction

to hear the current application and once this honourable court lacks the jurisdiction, the only thing to do is for this honourable court to down its tools as was held in the case of Owners of The Motor Vessel"Lillian S" V Caltex Oil (Kenya Limited 1989) eKLR.

56. They submit that, they have met the threshold required for a Preliminary Objection on a point of Law as provided for in the case of Mukisa Biscuits Manufacturing Ltd = Vs= West End Distribution (1969) 1 EA 696.

57. They further submit that, the case of Criminal Revision No. 218 Of 2015 DPP =Vs= Betty Njoki Mureithi (2016)eKLR is distinguishable with the current case in that, the orders of lady justice J. Lesiit were issued ex parte and hence, the application before her was not heard interpartes and at that time, honourable lady Justice G.W Ngenye – Macharia was attending a course at the judiciary training college and upon coming back, the same application with the exparte orders was placed before her. That Honourable Justice Lesiit did not hear that application as way this court did (inter - partes) and determined the application by the 2nd Respondent herein.

58. That further to the above, there are no special circumstances which have been provided to warrant this Honourable Court to exercise its discretion in favour of the current Application. They submit also that the current applicant was not supposed to be enjoined in the application of the current 2nd Respondent dated 29th April, 2024, since it was the prosecution who withdrew the case under section 87(a) of the *Criminal Procedure Code* and the current applicant played no role in the withdrawal of the case and that even without coming to this Honourable Court to request for the reopening of the criminal case in the lower court, the prosecution alone had and has the power to rearrest the current applicant and proceed to charge him, without involving him in such a decision. That whereas the input of all parties is necessary before a criminal case can be withdrawn, an accused person or suspect is not required to choose or decide whether he can be charged or not.

59. That it is on this basis that, they submit that, it was not necessary to enjoin the current applicant in the application for review filed by the 2nd Respondent. That there are no rights for the current applicant which have been violated by the current 2nd Respondent, the prosecution or the Honourable Court. That further to the above, Section 365 of the *Criminal Procedure Code* gives this honourable court wide discretion to allow or disallow a party to be heard when exercising its powers of revision.

60. In conclusion, they submit that the orders of this Honourable Court, for reinstatement of the criminal case in the lower court has already been perfected i.e. the criminal case E300 of 2023 has been reinstated, re-allocated to Court No 2 and already fixed for several mentions and hearing on 4th March, 2025 but was adjourned, on the request of the current applicant, to 1st April, 2025.

Determination

61. The applicant herein is seeking review/stay/ and set aside orders issued by this court on 13th November,2024. The Respondents have challenged the jurisdiction of this court stating that the court lacks jurisdiction to handle this present application since it was this same court that issued the orders which the Applicant is seeking to be reviewed hence this court is functus officio.

62. What I wish to consider is whether this court has jurisdiction to entertain the application herein. The genesis of this matter is that sometime in 2023, the 2nd Respondent herein (Ambrose Kibet) reported a case of threatening to Kill and Malicious damage to property at Marigat Police Station, against one Vincent Chebii, the current applicant in this application.

63. That the above complaint was investigated by the police and the office of the DPP eventually made a decision to charge Vincent Chebii with the above stated offences and a Criminal Case file No. Marigat

SPM CRIM No. E300 of 2023 was opened. That Vincent Chebii was arrested and charged with the aforesaid offences where he denied the charges and the case was set down for hearing on 15th April, 2024.

64. On 15th April, 2024, the prosecution, without the knowledge of the complainant Ambrose Kibet and his advocate on record, withdrew the case under Section 87 (a) of the *Criminal Procedure Code* and aggrieved by the above decision, the complainant, Ambrose Kibet filed a revision application dated 29th April, 2024 i.e. No. Kabarnet High Court Criminal Revision No. E033 of 2024 and sought for among others; the setting aside of the trial court's order of withdrawal made on 15th April, 2024 and the reinstatement of the Criminal Case Marigat Spm Crim Case No E300 Of 2023.

65. The application for review by complainant Ambrose Kibet was filed against the 2nd Respondent now the 1st Respondent and upon being served with the application the prosecution counsel filed a detailed response and submissions. That the 2nd Respondent on his part filed a supplementary affidavit and submissions and by ruling delivered on 13th November, 2024 this court allowed the Application. The applicant is now challenges the orders reinstating the criminal case on ground that the orders are prejudicial to the accused in that they were issued without him being heard contrary to the provisions of sections 364 (2) and 193 of the Criminal Procedure Act, Cap 75 and the rules of natural justice.

66. The Applicant states that there is an error apparent on the face of the record on the ruling and order issued by the court since the issue as to whether the learned trial magistrate should have discharged or acquitted the applicant is not in the province of revision but appeal; further, that the applicant lacked legal capacity to bring an application for revision as provided under section 364(5) and 348A of the *Criminal Procedure Code* and that it was not demonstrated that the learned magistrate who discharged the applicant exercised her discretion improperly or injudiciously as the applicant failed to disclose any illegality or impropriety attributable to the trial court to warrant the exercise of the High Court's power of revision as the discharge was sought by the prosecution in the exercise of their mandate;

67. The Supreme Court considered the issue of review of judgements and orders in Fredrick Otieno Outa v Jared Odoyo Okello & 3 others [2017] eKLR and held that:

> " ...we hold that as a general rule, the Supreme Court has no jurisdiction to sit on appeal over its own decisions, nor to review its decisions, other than in the manner already stated in paragraph (90) above. However, in exercise of its inherent powers, this Court may, upon application by a party, or on its own motion, review, any of its Judgments, Rulings or Orders, in exceptional circumstances, so as to meet the ends of justice. Such circumstances shall be limited to situations where:
>
> a. the Judgment, Ruling, or Order, is obtained, by fraud or deceit;
>
> b. the Judgment, Ruling, or Order, is a nullity, such as, when the Court itself was not competent;
>
> c. the Court was misled into giving Judgment, Ruling or Order, under a mistaken belief that the parties had consented thereto;
>
> d. the Judgment or Ruling, was rendered, on the basis of a repealed law, or as a result of, a deliberately concealed statutory provision."

68. From the foregoing, for a party to successfully move a court to review its own decision or that of a court with coordinate jurisdiction, the party is required to meet the conditions set out by the Supreme Court in the above cited case. The Applicant herein has not demonstrated any of the grounds set

by the Supreme Court above and therefore no ground that allows this Court to re-engineer its own judgement.

69. From the foregoing, I find that this Court is functus officio and lacks jurisdiction to entertain the Applicant's application. The only available avenue for the Applicant if aggrieved by this court's decision on revision application, was to appeal to court of appeal. In view of the above, I proceed to dismiss the application dated 4th December 2024.

70. Final Orders: -

Application dated 4th December,2024 is hereby dismissed.

RULING DELIVERED, DATED AND SIGNED VIRTUALLY AT KABARNET THIS 27TH DAY OF MAY 2025.

.....

RACHEL NGETICH

JUDGE

In the presence of:

Ms. Kosgei for State.

Mr. Mwaita for 2nd Respondent.

Ms. Bartous for Applicant.

Elvis/Momanyi – Court Assistants.