



**Sakwa v Directorate of Criminal Investigations & 2 others (Petition E646 of 2024)  
[2025] KEHC 12460 (KLR) (Constitutional and Human Rights) (14 August 2025) (Ruling)**

Neutral citation: [2025] KEHC 12460 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
CONSTITUTIONAL AND HUMAN RIGHTS**

**PETITION E646 OF 2024**

**AB MWAMUYE, J**

**AUGUST 14, 2025**

**IN THE MATTER OF ARTICLES 2, 10, 19, 20, 21, 23, 24, 27, 37, 40, 47, 50,  
165(3)(D), 232 (1), 258 AND 260 OF THE CONSTITUTION OF KENYA 2010**

**AND**

**IN THE MATTER OF CONTRAVENTION OF THE RIGHTS AND FUNDAMENTAL  
FREEDOMS UNDER ARTICLES 27, 40, 47 AND 50 OF THE CONSTITUTION OF KENYA**

**AND**

**IN THE MATTER OF THE FAIR ADMINISTRATIVE ACTIONS ACT, 2015**

**AND**

**IN THE MATTER OF PUBLIC OFFICER ETHICS ACT**

**AND**

**IN THE MATTER OF NATIONAL POLICE SERVICE ACT, CAP 84, LAWS OF  
KENYA**

**AND**

**IN THE MATTER OF NATIONAL PROSECUTION POLICY**

**AND**

**IN THE MATTER OF THE ADVOCATES ACT, CAP 16, LAWS OF KENYA**

**AND**

**IN THE MATTER OF UNLAWFUL HARRASMENT,  
THREATS AND INTIMIDATION BY PUBLIC OFFICERS**

**BETWEEN**

**MICHAEL OSUNDWA SAKWA ..... PETITIONER**



**AND**

**DIRECTORATE OF CRIMINAL INVESTIGATIONS ..... 1<sup>ST</sup> RESPONDENT**

**OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS .... 2<sup>ND</sup>  
RESPONDENT**

**THE HONOURABLE ATTORNEY GENERAL ..... 3<sup>RD</sup> RESPONDENT**

**RULING**

1. The Petitioner/Applicant, Michael Osundwa Sakwa, has filed the present Application together with a substantive Petition challenging the actions of interference and trespass of his property by the Respondents and also the intended arrest, detention and prosecution of the Petitioner in connection with the records of incorporation of Kenya United Sports Limited (C.140662) and the Proprietorship of LR. No. 13879 (IR. 152319) Karen Plains.
2. In the Notice of Motion dated 19<sup>th</sup> November, 2024 and supporting affidavit of even date sworn by Michael Osundwa Sakwa, the Petitioner/ Applicant herein avers that on Monday 18<sup>th</sup> November, 2024 the Respondents descended upon his Nairobi home and town office demanding to take him into custody. He further avers that, they have been stalking his home and his office daily occasioning him fear and intimidation together with his family and staff members.
3. According to him, in the recent past, the Respondents have threatened to arrest and prosecute him for purportedly interfering with the records of incorporation of an entity named Kenya United Sports Limited and the documents of ownership of a parcel of land in Karen Plains area in Nairobi, LR. No. 13879 (IR. 152319) and it is now evident that the Respondents intend to make good on their threats.
4. He contends that the Respondents are out to victimize him for carrying out the instructions of his client in the ordinary course of duty and that he is now completely unable to comfortably discharge his functions as a practicing advocate and an officer of the court as he lives in constant trepidation of unknown consequences including a possibility of abduction since the Respondents have neither summoned him to record a statement nor have they formally notified him of any criminal complaint made against him.
5. In light of these concerns, the Petitioner prays for the following orders:
  - a. An order to issue for the Petitioner to be admitted to bail or released on his own cognizance pending the inter parties hearing and determination of this Application.
  - b. A Conservatory Order be and is hereby issued staying any further interference and trespass by the Respondents on the Petitioner's personal property and suspending any intended arrest, detention or prosecution and continued arrest, detention or prosecution of the Petitioner in connection with the records of incorporation of Kenya United Sports Limited (C.140662), the Proprietorship of LR. No. 13879 (IR. 152319) Karen Plains and any litigation or dispute touching on the said Company and Property pending the inter parties hearing and determination of this Application.
  - c. An order to issue for the Petitioner to be admitted to bail or released on his own cognizance pending the hearing and determination of the Petition.



- d. A Conservatory Order be and is hereby issued staying any further interference and trespass by the Respondent on the Petitioner's personal property and suspending any intended arrest, detention or prosecution and continued arrest, detention or prosecution of the Petitioner in connection with the records of incorporation of Kenya United Sports Limited (C.140662), the Proprietorship of LR. No. 13879 (IR. 152319) Karen Plains and any Litigation or dispute touching on the said Company and property pending the hearing and determination of the Petition.
  - e. Costs of the Application be provided for
  - f. Such other orders and directions as may appear to this Honourable Court to be just and convenient to grant in the circumstances.
6. In opposition and in response to the Application, the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Respondents filed a Notice of Preliminary Objection dated 8<sup>th</sup> May 2025, to which they averred that this Honourable Court lacks jurisdiction to hear and determine both the Application and Petition herein since it is a dispute relating to the environment and use and occupation of, and title to land by virtue of Article 165(5) of *the Constitution* of Kenya 2010.
  7. They contend that by dint of Section 13(1) and 13(7) of the *Environment and Land Court Act* No. 19 of 2011, the Environment and Land Court has original and appellate jurisdiction to hear and determine all disputes in accordance to Article 162(2)(b) of *the Constitution* and also grants the Environment and Land Court powers to issue awards of interim orders, injunction and orders of restriction and compensation which provisions if read together with the Provisions under Article 162(2) of *the Constitution* of Kenya, 2010 ousts the jurisdiction of this Court to hear and determine this case.
  8. The 1<sup>st</sup> Respondent further filed Grounds of Opposition dated 11<sup>th</sup> March 2025, in response to the Application where they assert that the Prayers sought by the Petitioner are unconstitutional as they seek to prevent the Director of Public Prosecution from exercising its mandate as provided under Article 157 of *the Constitution*. They assert that under Article 157(10) of *the Constitution*, and Section 6 of the Office of the Director of Public Prosecution Act (2013), the 2<sup>nd</sup> Respondent does not require the consent of any person or authority for the commencement of criminal proceedings and in the exercise of the powers or functions, shall not be under the direction or authority of any person or authority.
  9. They contend that Section 24 of the *National Police Service Act* mandates the police to investigate any complaint brought to their attention in order to determine whether a criminal offence has been committed and that the Petitioner must demonstrate that substantial injustice would otherwise result if the criminal proceedings proceed but in the instant case, the Petitioner has not adduced reasonable evidence to show that the criminal proceedings are mounted for an ulterior purpose.
  10. The 3<sup>rd</sup> Respondent equally filed Grounds of Opposition dated 22<sup>nd</sup> January, 2025 in further response to the application and asserts that the Petition and Application are an abuse of the court process as they are seeking the court to stop the Respondents from executing their constitutional and legal mandate. Further, that the Application and Petition have not been pleaded with precision as they do not provide accurate particulars of the claim relating to any alleged violation of *the Constitution*.
  11. The Application was canvassed by way of written submissions, and in compliance only the 1<sup>st</sup> and 3<sup>rd</sup> Respondents filed their submissions.



### 1<sup>st</sup> and 3<sup>rd</sup> Respondents Submissions

12. The 1<sup>st</sup> and 3<sup>rd</sup> Respondents filed submissions dated 30<sup>th</sup> June 2025 where they submitted that they are alive to the fact that *the Constitution* calls for a purposive interpretation of Article 259 and observed that the jurisdiction of the High Court as established under Article 165 of *the Constitution*, 2010 is limited to two fronts namely Sub-Article 165(5)(b) which states in strict mandatory terms that the High Court shall not have jurisdiction in respect of matters reserved for the Employment and Labour Relations Court and the Environment and Land Court. Reliance was placed in the case of Republic v National Land Commission Ex-Parte Ephraim Muriuki Wilson & others [2018] eKLR.
13. They further submit that the claim before this court has been pleaded as a matter provided for in the *Land Registration Act* of 2012 under Section 24 – 35, 37, 42, 60 and 61. They aver that this Court cannot therefore abrogate itself the jurisdiction to venture into such territory and therefore pray that this Honourable Court strikes out the pleadings. They further aver that Section 13(7) of the *Environment and Land Court Act* No. 19 of 2011 provides that the Environment and Land Court can issue an award of interim order, conservatory orders, injunction, orders for restriction and compensation which provision if read together with Article 162(2) of *the Constitution* of Kenya 2010 ousts the jurisdiction of this court to hear and determine the instant application and petition. They further relied on the case of Muslim for Human Rights (Milimani) & 2 others vs Attorney General & 2 others (2011) eKLR and the cases of Centre for Rights Education and Awareness(CREAW) & 7 others v Attorney General (2011) eKLR, Platinum Distillers Limited vs Kenya Revenue Authority (2019) eKLR and Kenya Association of Manufacturers and 2 others vs Cabinet Secretary – Ministry of Environment and Natural Resources & 3 others (2017) eKLR.
14. They further submitted that the prayers sought do not establish a prima- facie case with a probability of success and do not support interlocutory orders prayed for thus matters which are the preserve of the main petition ought not to be dealt with finality at the interlocutory stage. Reliance was placed in the Supreme Court decision of Gatirau Peter Munya v Dickson Mwenda Kithinji & 2 others and the case of Board of Management of Uhuru Secondary School vs City County Director of Education & 2 others [2015] eKLR.
15. They further state that the Petitioner/ Applicant has not demonstrated before this court how the 1<sup>st</sup> and 3<sup>rd</sup> Respondents have violated his constitutional rights as it is well settled law that the petitioners ought to demonstrate how the respondents' conduct constitutes a violation and/or contravention of their fundamental rights and freedoms. They cited the case of Mrao vs First American Bank of Kenya Limited & 2 others (2003), Kamal Jadval Vekeria vs Director General, Kenya Citizens and Foreign National Management Service (2016) eKLR and finally the case of Daniel Chacha Muiruri vs Attorney General (2012) eKLR.

### Analysis and Determination

16. I have considered the Application, the responses, the Notice of Preliminary Objection, the Grounds of Opposition, the arguments by parties and the decisions relied on. The issues that arise for determination are:
  - a. Whether this Court has jurisdiction to grant the conservatory orders sought.
  - b. Whether the threshold for the grant of conservatory orders has been met.



### **i. Whether this Court Has Jurisdiction to Grant the Conservatory Orders Sought**

17. It is the duty of this court to satisfy itself in a matter that it is possessed of jurisdiction otherwise it may end up acting in vain. The jurisdiction of this court in dealing with Constitutional Petitions is properly invoked once a Petition that complies with the constitutional and legal requirements is lodged. The Court must therefore, decline any invitation by a Petitioner to deal with an alleged Petition which falls short of the laid down parameters on Constitutional Petitions.

18. The Supreme Court in Communications Commission of Kenya & 5 Others vs Royal Media Services Limited & 5 Others had the following to say on Constitutional Petitions: -

“Although Article 22(1) of *the Constitution* gives every person the right to initiate proceedings claiming that a fundamental right or freedom has been denied, violated or infringed or threatened, a party invoking this Article has to show the rights said to be infringed, as well as the basis of his or her grievance. This principle emerges clearly from the High Court decision in Anarita Karimi Njeru vs. Republic, (1979) KLR 154: the necessity of a link between the aggrieved party, the provisions of *the Constitution* alleged to have been contravened, and the manifestation of the Contravention or infringement. Such principle plays a positive role, as a foundation of conviction and good faith, in engaging the constitutional process of dispute settlement.”

19. The Supreme Court in the case of Samuel Kamau Macharia v Kenya Commercial Bank & 2 others [2012] eKLR went further to discuss the issue of jurisdiction in the following terms:

“A Court’s jurisdiction flows from either *the Constitution* or legislation or both. Thus, a Court of law can only exercise jurisdiction as conferred by *the Constitution* or other written law. It cannot arrogate to itself jurisdiction exceeding that which is conferred upon it by law...”

20. Whenever the issue of jurisdiction is raised due to the existence of a dispute resolution process that is provided under statute, the Court should examine the nature of the case and the reliefs sought to determine whether or not the aggrieved party would get redress elsewhere.

21. In the case of Owners of Motor Vessel ‘Lilian S’ v Caltex Oil Kenya Limited [1989] KLR 1 Nyarangi J. (as he then was) held:

“I think that it is reasonably plain that a question of jurisdiction ought to be raised at the earliest opportunity and the court seized of the matters then obliged to decide the issue right away on the material before it. Jurisdiction is everything. Without it, a court has no power to make one more step.”

22. Article 23 (3) of *the Constitution* basically affords a party to proceedings brought pursuant to Article 22, asserting violation or threat of violation of any Constitutional right or fundamental freedom, to prompt the court for any relief, including temporary reliefs. The said Article 23 provides as follows:

“23

(1) ...

(2) ...

23



- (3) In any proceedings brought under Article 22, a court may grant appropriate relief, including-
- a. a declaration of rights;
  - b. an injunction;
  - c. a conservatory order;
  - d. a declaration of invalidity of any law that denies, violates, infringes, or threatens a right or fundamental freedom in the Bill of Rights and is not justified under Article 24;
  - e. an order for compensation; and
  - f. an order of judicial review.” (emphasis)
23. Article 162 (2) establishes courts with the status of the High Court to hear and determine disputes relating to –
- a. Employment and labour relations; and
  - b. The environment and the use and occupation of, and title to, land.
24. The instant application I note that the Petitioner has quoted various provisions of *the Constitution* which in his view have been violated or threatened to be violated and has gone ahead to explain how the said provisions have been violated or are threatened to be violated and the injuries they are likely to cause. Further it clear from reading the Petition in totality, that the Constitutional right that the Petitioner/Applicant allege to have been threatened to be infringed upon by the Respondents is the violation of the national values of good governance, integrity, transparency and accountability. The Petitioner equally alleges a violation to his right to administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair as provided under Article 47 of *the Constitution* and also his right to fair trial as provided under Article 50 of *the Constitution* of Kenya, 2010.
25. This Honourable Court is clothed with immense powers to protect arbitral threat to and violation of fundamental rights and freedoms of the Petitioner and even though the Petitioner’s Petition is ideally premised on incorporation of Kenya United Sports Limited (C.140662) and the Proprietorship of LR. No. 13879 (IR. 152319) Karen Plains, which is a land matter whose jurisdiction is placed on the Environment and Land Court, the Petitioner has demonstrated that the instant petition is premised on violation of his rights by the Respondents acts of threatening to unlawfully arrest and prosecute him thus granting this Court jurisdiction to determine the matter.
26. In the pronouncement of Olao J which I find persuasive in the case of Martin Wanyonyi C.E.O Centre for Human Rights Organization) & another v County Government of Bungoma & 2 others [2019] eKLR held;

“However, I do not see the Anarita and Mumo Matemtu cases (supra) as laying down a hard rule that a Petition which does not set out which particularity the Constitutional provisions alleged to have been infringed must suffer the fate of dismissal or striking out. Indeed, the Mumo Matemtu case (supra) refers to “reasonable precision” while the Anarita Karimi Njeru case (supra) talked about a “reasonable degree of precision.” The Anarita Karimi Njeru case (supra) also emphasizes the need “to ensure that justice is done.” The view I take of the



matter is that whereas it is important to follow the guidelines and draw proper pleadings because they are the background upon which Constitutional Petitions and indeed all other claims are determined, transgressions that do not prejudice the opposing party should not in themselves be employed to defeat a claim...”

27. Article 165(3)(d) of *the Constitution* empowers the High Court to determine the constitutionality of any law or the conduct of any person or entity in purported exercise of constitutional power. Furthermore, under Article 23(3), the High Court may grant appropriate reliefs, including conservatory orders, in proceedings brought under Article 22. It is therefore incontestable that this Court has the jurisdiction to adjudicate on the present dispute and grant interim measures for the protection of constitutional rights and values.

**ii. Whether the threshold for the grant of conservatory orders has been met.**

28. The general principles guiding courts on determining applications for conservatory orders were set out in the case of *Small Scale Farmers Forum vs Cabinet Secretary Ministry of Education Science and Technology & 5 others* [2015] eKLR as follows:

“(30) The principles which govern a court considering an application for interim or conservatory relief [are considered] to be the following: The applicant ought to demonstrate a prima facie case with a likelihood of success and that he is likely to suffer prejudice as a result of the violation or threatened violation if the conservatory order is not granted: see *Centre for Human Rights Education and Awareness & 7 Others vs the Attorney General* HCCP No. 16 of 2011. It is not enough to show that the prima facie case is potentially arguable but rather that there is a likelihood of success: see *Godfrey Mutahi Ngunyi vs The Director of Public Prosecutions & 4 others* NBI HCCP No. 428 of 2015 and also *Muslims for Human Rights and Others vs Attorney General & others* HCCP No 7 of 2011. The grant or denial of the conservatory relief ought to enhance Constitutional values and objects specific to the rights or freedoms in the Bill of Rights: see *Satrose Ayuma & 11 others vs Registered Trustees of Kenya Railways Staff Benefits scheme* [2011] eKLR and also *Peter Musimba vs The National Land Commission & 4 Others (No 1)* [2015] eKLR. If the conservatory order is not granted, the Petition or its substratum will be rendered nugatory: see *Martin Nyaga Wambora vs Speaker of the County Assembly of Embu & 3 Others* HCCP No. 7 of 2014. The Public interest should favour a grant of the conservatory order: see the Supreme Court of Kenya decision in *Gatarau Peter Munya vs Dickson Mwenda Githinji & 2 others* [2014] eKLR. The circumstances dictate that the discretion of the court be exercised in favour of applicant after a consideration of all material facts and avoidance of immaterial matters: see *Centre for Human Rights and Democracy & 2 Others vs Judges and Magistrates Vetting Board & 2 others* HCCP No 11 of 2012 as well as *Suleiman vs Amboseli Resort Ltd* [2004] 2 KLR 589.”



29. It is the duty of this Court to protect citizens against harsh and unfair treatment and to grant appropriate relief as mandated by Article 23 (3). This was captured in *Reginal vs Ittoshat* (1970) CRNS, 385 where the court held that;

“This court not only has a right but a duty to protect citizens against harsh and unfair treatment. The duty of this court is not only to see that the law is applied but also, which is of equal importance, that the law is applied in a just and equitable manner.”

30. Article 157 of *the Constitution*, enjoins the 2<sup>nd</sup> Respondent herein the Director of Public Prosecution (DPP) to order investigations into any alleged Criminal conduct or activities. The DPP is also granted powers to instate, continue, take over and or discontinue any criminal proceedings.

31. Article 245 (4), (a) of *the Constitution* provides that:

“(4) The Cabinet Secretary responsible for police services may lawfully give a direction to the Inspector General with respect to any matter of policy for the National Police Service, but no person may give a direction to the Inspector-General with respect to –

- a. The Investigation of any particular offence or offences;
- b. The enforcement of the law against any particular person or persons;
- c. ...

32. To give effect to the constitutional mandate of investigation of crimes under Article 245 of *the Constitution*, the *National Police Service Act* under Section 24 provides for the functions of the Police to include investigation of crimes and apprehension of offenders.

33. In the exercise of its supervisory jurisdiction under Article 165 of *the Constitution* of Kenya, 2010 the Courts must ensure that they do not interfere with the powers of other independent offices and in this regard, the court must exercise its powers only in exceptional circumstances since the constitutional functions performed by the state organs are geared towards serving the wider public interest as opposed to the perceived private right of one individual as is the case in the instant petition. See *Diana Keithi Kilonzo vs IEBC & 2 Others* NBI HCCP No. 359 of 2013.

34. In the case of *Gatirau Peter Munya vs Dickson Mwenda Githinji & 2 Others* [2014] eKLR, the Supreme Court explained the place of conservatory orders in legal proceedings as follows:

“Conservatory Orders bear a more decided public law connotation: for these are orders to facilitate ordered functioning within public agencies, as well as to uphold adjudicatory authority of the court, in the public interest. Conservatory orders, therefore are not, unlike interlocutory injunctions linked to such private-party issues on the ‘prospects of irreparable harm occurring during the pendency of a case; or ‘high probability of success’ in the Applicants case for orders of stay. Conservatory orders consequently, should be granted on the inherent merit of the case bearing in mind the public interest, the Constitutional values and the proportionate magnitudes, and priority levels attributable to the relevant causes.”



35. In the case of Kenya Association of Manufacturers & 2 others vs Cabinet Secretary – Ministry of Environment and Natural Resources & 3 others (2017) eKLR the court stated that :

“In an application for a conservatory order, the court is not invited to make any definite or conclusive findings of fact or law on the dispute before it because that duty falls within the jurisdiction of the court which will ultimately hear the substantive dispute. The jurisdiction of the court at this point is limited to examining and evaluating the materials placed before it, to determine whether the applicant has made out a prima facie case to warrant grant of a conservatory order. The court is also required to evaluate the materials and determine whether, if the conservatory order is not granted, the applicant will suffer prejudice. Thirdly, it is to be borne in mind that conservatory orders in public law litigation are meant to facilitate ordered functioning within the public sector and to uphold the adjudicatory authority of the court in the public interest.”

36. A prima facie case was defined in the case of Mrao LTD vs First American Bank of Kenya LTD & 2 Others (2003) eKLR by the Court of Appeal as follows:

“A prima facie case in a civil application includes but is not confined to a “genuine and arguable case.” It is a case which, on the material presented to the court, a tribunal properly directing itself will conclude that there exists a right which has apparently been infringed by the opposite party as to call for an explanation or rebuttal from the latter...

A prima facie case is more than an arguable case. It is not sufficient to raise issues. The evidence must show an infringement of a right, and the probability of success of the applicant’s case upon trial. That is clearly a standard which is higher than an arguable case.”

37. In the present case, the Applicant seek conservatory orders against the Respondents who he alleges have been stalking and threatening to arrest and prosecute him on issues that relate to the incorporation of Kenya United Sports Limited (C.140662) and the Proprietorship of LR. No. 13879 (IR. 152319) Karen Plains pending before the Environment and Land Court.

38. It can easily be discerned from the cited authorities that in petitions alleging violations of rights and fundamental freedoms or violation of *the Constitution*, the prospects of irreparable harm occurring during the pendency of the case and high probability of success are the key considerations in an application for conservatory orders. While considering the inherent merit of a case, the court must also consider in mind the public interest, constitutional values, and the proportionate magnitudes and priority levels attributable to the relevant causes.

39. At this interlocutory stage, the Court will not delve into the merits of the case to avoid the risk of prejudging it, before it is heard on merit.

40. The Applicant claims that the Respondents have been stalking his home and office and have in the recent past laced incessant calls to him threatening to arrest and prosecute him for purportedly interfering with the records of incorporation of an entity named Kenya United Sports Limited and the documents of ownership of a parcel of land in the Karen Plains area of Nairobi in the same breath admits that he has not been summoned by the Respondents regarding the investigations if any.

41. The Applicant is being investigated by the 1<sup>st</sup> Respondent which is mandated to investigate allegations against any individual. The 2<sup>nd</sup> Respondent on the other hand has the duty to institute any proceedings against any person in respect of any offence he may have committed (see Article 157 of *the Constitution* of Kenya, 2010). However, in existing such power there is need to avoid abuse of the legal process.



42. The argument of the Applicant is that the allegations made are unfounded which should prompt this court to grant him anticipatory bail and grant him pending hearing and determination of the Petition.
43. In the case of Republic vs Kenya Anti-Corruption Commission and 2 Others Ex-parte Wildlife Lodges Limited (2014) eKLR the court held that:
- “The mere fact that the allegations made are likely to be found worthless, is not a ground for halting investigations into the complaints made or brought to the attention of the 1<sup>st</sup> Respondent since the purpose of a criminal investigation conducted bona fide is to consider both incriminating and exculpatory material and not just to collect evidence on the basis of which a criminal charge may be laid.”
44. A court of law would not interfere with the investigations because the individual suspected is apprehensive of being arrested and charged. The court can only interfere with investigations if it is demonstrated that the purpose of investigations is to abuse due course of investigations.
45. In my view, and it is my finding that, the Applicant has not demonstrated in any concrete way that the Respondents seek to arrest and prosecute him as they are carrying out their constitutional duties of investigating a crime. Further I do not believe that the Applicant is in danger of suffering any prejudice if conservatory orders are not granted.
46. The Respondents appear to be acting within their mandate. In the event that the Applicant is arrested and arraigned in court his constitutional rights will not be violated merely by that outcome, based on what the Applicant has presented in the Application. In the premises, the Applicant will not suffer any prejudice if the orders sought are not granted.
47. Additionally, it must be remembered that the Respondents are creatures of *the Constitution* and the laws of this Country. They have mandates to execute. Unless it is demonstrated that they have overstepped their boundaries, conservatory orders will not issue. Issuance of undeserved orders will result in stoppage and delay of the functions of the Respondents to the detriment of the public good. In this case, the Applicant has not shown that the Respondents have violated *the Constitution* so as to warrant intervention at this interlocutory stage.
48. I therefore decline to grant the Applicant Conservatory orders as sought in the Application dated 19<sup>th</sup> November 2024. The Applicant’s application is therefore dismissed and the conservatory orders in force are discharged with immediate effect. Costs of the Application shall abide the outcome of the Petition.

**DATED, SIGNED, AND DELIVERED VIRTUALLY THIS 14<sup>TH</sup> DAY OF AUGUST 2025.**

.....

**BAHATI MWAMUYE**  
**JUDGE**

In the presence of: -

Counsel for the Petitioner – Ms. Sheunda h/b Mr. Kiprono

Counsel for the 1<sup>st</sup> & 3<sup>rd</sup> Respondent – Ms. Kiraman h/b Ms. Wanjiru

Counsel for the 2<sup>nd</sup> Respondent – No appearance

Court Assistant – Ms. Lwambia

