



NKM v NJS (Civil Appeal E174 of 2025) [2025] KEHC 11966 (KLR) (11 August 2025) (Ruling)

Neutral citation: [2025] KEHC 11966 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
CIVIL APPEAL E174 OF 2025
RN NYAKUNDI, J
AUGUST 11, 2025**

BETWEEN

NKM APPLICANT

AND

NJS RESPONDENT

RULING

1. Before this court are two application filed almost simultaneously as against the proceedings pending before the trial court. In essence this is interlocutory reference to this court and therefore not based the substantiveness of the course of action under adjudication before the learned trial magistrate pursuant to Art 50 (1) of *the constitution*.
2. The first application which this court is asked to consider is one dated 29th July 2025 expressed to be brought under Order 42 Rule 6 (1) &(2) & Order 51 of the CPR and all other enabling provisions of the law seeking the following orders:
 - a. Pending hearing and determination of this Application inter partes, this Honorable Court be and is hereby pleased to grant a temporary stay of execution of the Ruling and orders by Hon. Kesse Cherono -Principal Magistrate, delivered on 16th July 2025 in Eldoret Chief Magistrate's Court Children's Case No.e072 Of 2024, NJS (Suing as mother and next friend of the Minor) -VS- NKM.
 - b. Pending hearing and determination of this Application inter parties, this Honorable Court be and is hereby pleased to grant a temporary stay of further proceedings in Eldoret Chief Magistrate's Court Children's Case No.E072 OF 2024, NJS (Suing as mother and next friend of the Minor) -VS- NKM.
 - c. Pending hearing and determination of the Appeal, this Honourable Court be and is hereby pleased to grant a stay of execution of the Ruling and orders by Hon.Kesse Cherono-Principal



Magistrate, delivered on 16th July 2025 in Eldoret Chief Magistrate's Court Children's Case No. E072 OF 2024, NJS (Suing as mother and next friend of the Minor)-VS-NKM

- d. Pending hearing and determination of the Appeal Honorable Court be and is Eldoret Chief Pending hearing and determination of the Appeal, this Nancy Jemutai hereby pleased to grant a stay of further proceedings in Magistrate's Court Children's Case No.E072 of 2024,Samoei (Suing as mother and next friend of the Minor)-VS-NKM.
- e. Costs of this Application be in the cause which application is based on the following grounds:-
 - a. That on 16th July 2025, Hon. Kesse Cheronno-Principal Magistrate delivered a Ruling in Eldoret Chief Magistrate's Court Children's Case No. E072 OF 2024,NJS (Suing as mother and next friend of the Minor)-VS-NKM, allowing the Respondent's application dated 31st March 2025 in its entirety, effectively granting the following reliefs:
 - i. That the court be pleased to order a review of the outcome in the paternity test dated 3rd February 2025 directing that the same be conducted by obtaining fresh samples as well as other specific particularities being a court-sanctioned and court-supervised process to secure the integrity of the result.
 - ii. That with credible doubts cast on the integrity of the process undertaken by Government Chemist Nairobi, the court directs that the review be done by Government Chemist Kisumu and further direct that none of the staff involved in the Nairobi process be allowed to be engaged in the review.
 - iii. That further due to the immense cost implications the court directs that both parties bear their own costs and be conducted in the nearest facility being Government Chemist Kisumu in the best interest of the child.
 - iv. That further in its supervision mandate and owing to multiple disputed results and suspicious conduct of the Respondent, the court be pleased to step up integrity measures in exercise of its discretion to direct that the test be personally conducted by the senior most officer responsible for paternity tests with a direct court mandate at Government Chemist Kisumu, and be personally required to account and report directly to the court.
 - v. That the court directs that the review be conducted by Polycarp Lutta who is currently listed as the Head of DNA Services at Government Chemist Kisumu, with an additional personal responsibility for this particular review to assist the court reach a fair and just outcome
 - vi. That the costs of this application be provided for
 - b. This directive was issued despite the existence of two prior conclusive DNA tests, one conducted privately by consent of the parties at Pathologists Lancet Kenya and the other, a court sanctioned test by the Government Chemist in Nairobi, both of which excluded the Appellant/Applicant as the biological father of the Minor.
 - c. In compliance with the court sanctioned test, the Appellant/ Applicant who ordinarily resides and works in the United States of America, travelled back to Kenya at his own expense to undergo the DNA test conducted at the Government Chemist Nairobi. The test was administered with the participation of the Respondent and the Minor



- d. Once the court sanctioned DNA test was conducted by the Government Chemist at Nairobi and the results sent to court directly revealing that the Appellant/Applicant is not the father for the second time, the Respondent filed the Application dated 31st March 2025 challenging the said results on similar grounds as she had done to challenge the DNA results that had been conducted privately by consent.
- e. The Appellant/Applicant being aggrieved with the decision of the Court compelling him to undergo a third DNA test without any basis at all, has lodged an appeal against the said decision.
- f. The Appellant/Applicant has since filed the appeal challenging the impugned Ruling and now seeks a stay of execution to prevent the unjustified imposition of a third DNA test that would subject him to repetitive litigation, psychological distress, unnecessary and oppressive proceedings, contrary to the principles of fairness and proportionality.
- g. Unless the Honorable court grants interim orders of stay, the impugned orders are capable of immediate execution, which would render the pending appeal nugatory and result in violation of the Appellant's rights to dignity, privacy, and bodily autonomy under Articles 28 and 31 of *the Constitution*.
- h. The Respondent, and most importantly the Minor, will not suffer any prejudice if the orders of stay are granted, as the appellate court will still determine the issue of paternity in accordance with the law and in the child's best interests.
- i. The Appeal raises weighty legal and constitutional issues, including violations of the Appellant's rights to privacy, dignity, and bodily autonomy under Articles 28 and 31 of *the Constitution*.
- j. This Application has been brought without unreasonable delay on the part of the Appellant/Applicant.
- k. The Appellant/Applicant undertakes to comply with any reasonable conditions this Court may impose for grant of stay.
- l. It is in the interest of fairness and justice that the orders sought are granted.

In addition to the grounds in support of the motion the applicant has also annexed an affidavit in which she asserts interalia as follows:

- a. I filed this Appeal against the Ruling delivered on 16th July 2025 in Eldoret Magistrate's Court Children's Case No.E072 OF 2024, NJS (Suing as mother and next friend of the Minor)-VS-NKM by Hon.Kesse Cherono-Principal Magistrate, where the Court directed that I undergo a third DNA test at the Government Chemist in Kisumu.
- b. The Respondent and I got married in December 2020 and during the subsistence of our marriage, she gave birth to a child, the Minor herein, on 16th August 2023.
- c. After the Minor's birth, suspicion arose concerning the Minor's paternity, which prompted a family meeting involving both my family and the Respondent's. Consequently, it was mutually agreed that a DNA test be conducted at Pathologists Lancet Kenya.



- d. On 16th January 2024, I, the Respondent, and the Minor all attended the said facility for sample collection. The results, dated 7th February 2024, excluded me as the biological father. (Annexed herein and marked NKM-1 is a copy of the DNA test results from Pathologists Lancet Kenya dated 7th February 2024)
- e. The court allowed the Respondent's application dated 13th May 2024, and it was agreed that the court-sanctioned DNA test be conducted at Government Chemist, Nairobi. I travelled from the United States at my own cost for this purpose, and the sample collection was done on 15th January 2025 with the participation of both the Respondent and the Minor. The results, dated 3rd February 2025, which were sent directly to the court, again confirmed that I am not the biological father. (Annexed herein and marked NKM-4 is the Government Chemist Report dated 3rd February 2025)
- f. No concerns were raised by the Respondent before or after the collection of samples at Government Chemist Nairobi. It is only after the results were released that the Respondent sought time to file an application for review.
- g. I opposed the said Application vide a Replying Affidavit dated 8th July 2025. (Annexed herein and marked NKM-6 is the Replying Affidavit dated 28th April 2025)
- h. On 16th July 2025, the impugned Ruling was delivered by the court allowing the Respondent's application as prayed. Effectively, the court allowed the following reliefs:
 - a. That the court be pleased to order a review of the outcome in the paternity test dated 3rd February 2025 directing that the same be conducted by obtaining fresh samples as well as other specific particularities being a court-sanctioned and court-supervised process to secure the integrity of the result.
 - b. That with credible doubts cast on the integrity of the process undertaken by Government Chemist Nairobi, the court directs that the review be done by Government Chemist Kisumu and further direct that none of the staff involved in the Nairobi process be allowed to be engaged in the review.
 - c. That further due to the immense cost implications the court directs that both parties bear their own costs and be conducted in the nearest facility being Government Chemist Kisumu in the best interest of the child.
 - d. That further in its supervision mandate and owing to multiple disputed results and suspicious conduct of the Respondent, the court be pleased to step up integrity measures in exercise of its discretion to direct that the test be personally conducted by the senior most officer responsible for paternity tests with a direct court mandate at Government Chemist Kisumu, and personally required to account and report directly to the court.



- e. That the court directs that the review be conducted by Polycarp Lutta who is currently listed as the head of DNA services at Government Chemist Kisumu, with an additional personal responsibility for this particular review to assist the court reach a fair and just outcome.
- m. Being aggrieved by the said Ruling, I lodged the instant Appeal on 28th the following grounds of Appeal:
- a. The Learned Magistrate erred in law and in fact by failing to consider the initial DNA test conducted by Pathologists Lancet Kenya which independently excluded the Appellant as the biological father of the Minor and corroborated the later result from the Government Chemist Nairobi.
 - b. The trial court erred in law and in fact by invoking its review jurisdiction solely on the basis of unproven allegations by the Respondent, without satisfying the legal threshold for review, including the existence of new and material evidence, an error apparent on the face of the record, or other sufficient reason. The court relied exclusively on the best interests of the child, without balancing that consideration against the need for procedural fairness and evidentiary support.
 - c. The Learned Magistrate erred in law and fact when she held that the Respondent's allegations casting doubt on the integrity of the DNA testing process had not been countermanded and remained uncontroverted by the Appellant yet the Appellant expressly addressed each allegation in his Replying Affidavit and written submissions.
 - d. The trial court erred in law and in fact by improperly shifting the evidentiary burden to the Appellant, contrary to Sections 107-109 of the *Evidence Act*, despite it being the Respondent who bore the legal obligation to prove fraud, irregularity, or procedural impropriety in the conduct of the DNA testing.
 - e. The Learned Magistrate erred in law and in fact by undermining established jurisprudence which recognizes DNA testing as the most reliable and conclusive method of determining paternity, without any justifiable basis to question the integrity of the results.
 - f. The trial court erred in law and in fact by improperly exercising discretion in prescribing the location (Government Chemist Kisumu) and naming a specific officer (Polycarp Lutta) to conduct the DNA test, thereby interfering with institutional independence and setting dangerous precedent for litigant-driven forum shopping and abuse of the judicial process.
 - g. The Learned Magistrate erred in law and in fact by misapplying the "best interests of the process child" principle under Article 53(2) of *the Constitution* by treating it as absolute, and failing to balance it against the Appellant's fundamental constitutional rights under Articles 28 and 31, including the right to dignity, privacy, and bodily integrity.
 - h. The trial court erred in law and in fact by failing to consider the psychological distress, financial burden, and legal prejudice occasioned to the Appellant, who already submitted to two intrusive DNA tests and was now subjected



to further litigation without any lawful justification.(Annexed and marked NKM-8 is a true copy of the Memorandum of Appeal)

- n. The said appeal is yet to be heard and determined and if the Respondent proceeds with execution, the Appeal together with the Application herein will be rendered nugatory.
- o. I stand to suffer substantial loss if the impugned Ruling and the orders thereto are enforced as:
 - i. I have endured immense psychological distress and public ridicule, both personally and within my family arising from the prolonged litigation and the anxiety of awaiting the outcomes of two separate DNA tests. Each time, the results have unequivocally confirmed that I am not the biological father of the Minor. Subjecting me to a third round of this emotionally draining process, without compelling justification, is not only punitive but deeply injurious to my mental well-being.
 - ii. The two DNA tests have imposed a significant financial burden upon me. I bore the full cost of both tests, including international travel expenses, as I had to fly from the United States of America for the second test conducted at the Government Chemist in Nairobi. Repeating this process would only escalate the already considerable expense I have incurred in defending myself against these recurring claims.
 - iii. My constitutional rights to dignity, bodily autonomy, and privacy as enshrined under Articles 28 and 31 of *the Constitution* have already been infringed through the two previous DNA tests. The order requiring a third test threatens to violate these rights further, with no new basis or evidence warranting such a drastic and intrusive measure.
 - iv. There is no way of determining how many DNA tests are sufficient to satisfy the Respondent that I am not the biological father to the Minor. Per adventure, the third DNA test is conducted and it confirms the previous two, will the Respondent be satisfied? What if the results contradict the two previous ones, wouldn't that necessitate a fourth or a fifth DNA test?

Replying Affidavit

- 3. That I am a female adult of sound mind and well conversant with the facts attendant to this suit, hence compos mentis to swear this affidavit.
- 4. That I have read and been explained to by my advocates the contents of the Application dated 29th July 2025 and wish to respond as hereunder.
- 5. That I am advised by my advocates from the outset that the Applicant is mistaken that the trial court exercised review powers when in fact the court was just monitoring the judicial process in the court sanctioned paternity test which remains the court's duty to satisfy itself as to the justice of the process and is always well in its discretion to accept or reject paternity test results as they often do, or order a retest even with special conditions on who and where it is to be performed as in this case.
- 6. That as such there is in fact nothing to appeal as the trial court is yet to conclude its processes of ascertaining the paternity of the minor. It is only after the trial court downs its tools that the Applicant can then have substantive grounds of appeal.



7. That I am advised by my advocates which advice I rely on that there are no two tests that make this test the third. The retest is just the second test, as the trial court already pronounced itself on the first Pathologists Test as unsupervised and therefore of zero judicial value.
8. That the second test by Government Chemist Nairobi is yet to be officially set aside by the trial court (rendering this appeal and application unripe at this stage) which clearly requires an additional test to consider it a safe conclusion that indeed there was no mischief on the part of the Applicant, which is very fair. Why should he be allowed to run away just on one suspicious test from a child of his own family and his own household he was feeding all through pregnancy to estrangement, and in the context of a valid ongoing marriage?
9. That the birth certificate of the minor bears the Applicant's own name, and has been cared for since conception to birth when the Applicant unlawfully abdicated his parental duties despite the ongoing marriage as part of his immediate nuclear family. The minor is his child, resembles him physically as an uncontroverted fact throughout the trial in the lower court, and which could have played a role in the trial court's decision for a retest because the circumstantial evidence and totality of events as him not denying being intimate at the time of the conception. In fact the only thing that seems to work to exclude him is the paternity test! He fails in all other grounds.
10. That I am advised by my advocates which advice I rely on that paternity test is only one of the many factors a court could use in ascertaining parental responsibility, and many times the retest has returned a different result, but also courts have declined results of paternity tests in making decisions on parental duties as in loco parentis, or where the court has seen evidence in form of pictures that show the Applicant to be a replica image of the Applicant. Judges are human too and see these theatrics and machinations.
11. That I am further advised by my advocates which advice I rely on that retest is almost now judicially recognized to be almost a right in favour of the minor where credible doubts are raised, and nothing in the standard of review powers, especially when the requesting party bears the costs of the test. There is no better context than such where a child of a marriage and family is adjudged to be a stranger. So whose child will she be once the court easily lets the father slither away, especially on a first suspicious test?
12. That I am advised by my advocates which advise I rely on that the trial court's function was not in exercise of its review powers but its own performance of its legal duty to secure the credibility of the paternity test and in particular to satisfy itself in making the appropriate orders in determining parental responsibility the centre of which is the rights of the minor which the court must protect by whatever means necessary even if biased, and nothing restricts a judicial officer from directing a retest with conditions to enable them make this decision to cut off the minor of half her heritage and dependence which is only equal to a death sentence.
13. That I am advised by my advocates that the standards referenced by the Applicant of review status is not applicable, being a court-controlled process, and in fact the court could still make its decision without or against the paternity test result. In a word, the paternity test is a persuasive guide and not cast in stone in judicial decisioning.
14. That there was therefore in fact nothing of the court reviewing its decision but rather simply rejecting the paternity test and ordering a new one for purposes of satisfying itself on who the real father of the minor is before making an eternally consequential decision to cut the minor off half her heritage and critical source of financial support for a lifetime.
15. That I am advised by my advocates which advice I rely on that it therefore follows that this being an appellate court it is not open to interrogate facts but limited to questions of law. There are no valid



questions of law raised by a current father heading a family feeling prejudiced in being made to undergo a second paternity test by a member of his own household.

16. That the Applicant has admitted being presently married to me and we have been so married since 31st December 2020, and this dispute is then subject to a higher standard of suspicion of his being the father of the minor, and the duties of the Applicant must be ascertained because for all intents and purposes, even in the unlikely event of not being the biological father, a father by law.
17. That being the husband he is the putative father. He does not deny that the child resembles him, as noted by the trial court. He does not deny being intimate with the Respondent during the material time. He does not deny performing his parental duties and that the parties are his family for all intents and purposes, notwithstanding residing in the USA for most of the time.
18. That if the excuse that he has been away in the USA were to be used to allow parties to escape parental responsibility, then thousands of families all over the world living off spouses and parents in the diaspora would not be considered families by law.
19. That it is therefore proper that the court contextualizes that presently the parties are a family as any other family currently living together in marriage, and therefore the paternity issue is in family context and must be held to a higher standard.
20. That at some point the Applicant even started processing immigration documents for the family in 2021 before change of heart. This is his family presently for all intents and purposes, however much the Applicant is working hard to distance himself as strangers to him.
21. That additionally the court is drawn to the fact that the Applicant was directed to make a monthly child support payment of Kshs. 20,000/- in the interim from July 2024. One year down the line he is yet to fully comply. He is therefore not entitled to the exercise of the court's discretion to a party in disobedience of the court orders.
22. That the Applicant is not candid in claiming that there are two tests by consent of the parties. The first private test by Lancet Kenya is expressly disputed by the Respondent and was never consensual but obtained by misrepresentations, and the trial court agreed and held that it was in any case a private test with no value to judicial proceedings especially when disputed.
23. That as such there is only one valid paternity test on record, not two. This will be the second test which ought not to be unreasonably denied when reasonable doubt has been cast on the conduct of the Applicant before, during and after the paternity test.
24. That the test at Government Chemist is the only test sanctioned by the court, and it is widely accepted that a party dissatisfied with the outcome of a paternity test can request the court for an additional test at a private facility, the same facility or a different facility. And in such a matter involving minors the court is duty bound to act even unfairly to the parents to secure the biased interests of the minor.
25. That the trial court agreed with the Respondent on questions of suspicious conduct both before, during and after the test which on the balance of evidence the honorable magistrate chose to exercise her discretion in favour of the Respondent, because in their totality they did cast aspersions on the conduct of the Applicant.
26. That it is not disputed by the Applicant that his counsel submitted additional documents to the Government Chemist Nairobi in excess of the required documents, especially the previous impugned results from Pathologists Lancet. This was improper and unjustified as it was obviously intended to persuade and influence decisions.



27. That equally the Applicant intimated at various times to the Respondent that he will do all to secure a favorable result 'even if he were to spent millions' and 'I do not want anything to do with you and your child'. Again, beyond general denialism the Applicant did not address himself to these serious allegations, and the trial magistrate correctly observed that these were important issues.
28. That I am advised by my advocates which advise I rely on that there is nothing of review in such a case of exercise of judicial discretion, and it is enough if the judicial officer exercised her discretion judiciously to reject or suspect the paternity test result.
29. That it is not unusual or impossible for a court in such a court-sanctioned process to decline or order a fresh test, importantly noting in her ruling that paternity tests in Kenya are not known to be fool proof.
30. That it therefore follows that the trial court was right in ordering a retest and could well still choose to go against the findings of the paternity test without ordering a retest. It is a wise act of caution to avoid condemning the minor in suspicious circumstances, especially being as noted by the trial court that DNA testing in Kenya is not known to be foolproof.
31. That the Applicant has not demonstrated any prejudice he will suffer apart from the small inconvenience of costs, yet the child is presently a valid member of his immediate family being the father of a child born in the course of the marriage, and therefore a child for all intents and purposes. The trial court is right to raise its level of suspicion of him being the father by ordering a retest.
32. That it was well within the discretion of the trial court to order a retest in such terms and conditions it deems fit as to satisfy it that the integrity of the result is assured before placing reliance on it to cut the minor off half her heritage.
33. That in the totality of the circumstances there is nothing to appeal as the Applicant should first let the trial court finalise its processes and then appeal if dissatisfied, but as it is the Applicant is hindering justice in the lower court which almost two years down the line is yet to conclude on this important issue.
34. That it may well be that interim applications of this nature before a final and conclusive judgment by the trial court which may well be in favour of the Applicant equally as the Respondent is not in the best interests of the minors as observed by Justice Wananda in the attached ruling. The trial court should be allowed to run its processes to its conclusion after which the baton can come to this venerable appellate court in seamless process. (Attached is the ruling of Justice Wananda in related matter HCCA E167 of 2024 discouraging interim applications of this nature)
35. That I swear this affidavit in opposition to the application dated 29th July 2025

Decision

36. The remedy on stay of execution pending appeal is provide for under Order 42 Rule 6 (1) of the CPC and one also can borrow from the provisions of the Court of Appeal being the famous Rule 5(2) (b). These two rules set out the scope in which exercise of discretion can be balanced to grant or decline grant of stay of execution pending appeal. In this first appeal the governing principles include undue delay in filing the application, the irreparable harm or substantial loss and more of a secondary condition precedent of depositing security. I say so for this condition has to be weighed with the constitutional imperatives in Art 47, 48 & 50 of *the constitution*. This two fundamental provisions as enacted forms the basic structure in matters of this nature. The court in Republic v Anti-corruption



Commission and others, Civil Application No. 51 of 2008 (PK Tunoi, EM Githinji & P N Waki, JJA on 20th February 2009) (CAK) [2009] KLR 31 held as follows:

The law as regards the principles that guide the Court in such an application brought pursuant to rule 5(2)(b) of the Court of Appeal Rules are now well settled. The Court exercises unfettered discretion which must be exercised judicially. The applicant needs to satisfy the Court, first, that the appeal, or intended appeal is not frivolous, that is to say that it is an arguable appeal. Second, the Court must also be persuaded that were it to dismiss the application for stay and later the appeal or intended appeal succeeds, the results or the success could be rendered nugatory. In order that the applicant may succeed, he must demonstrate both limbs and demonstrating only one limb would not avail him the order sought if he fails to demonstrate the other limb. See *Reliance Bank Ltd v Norlake Investments Ltd* [2002] 1 EA 227; *Githunguri v Jimba Credit Corporation Ltd and others (number 2)* [1988] KLR 838.

37. I have anxiously considered the notice of motion before us, the affidavits, the ruling of the superior court, the rival submissions by the learned trial counsel and the law, with the above principle as guide. Without going into details, lest a prejudice the hearing of the appeal, I am prepared to accept that the intended appeal is arguable. I am also satisfied that if I do not grant a stay and the appeal was to succeed the applicant would have undergone a DNA test which is protected under the Art 28 & 31 of *the constitution*. There is no doubt in law that if the process of the DNA profiling which is at the center of the intended appeal and has been put in motion or likely to be put in motion as fashioned by the learned trial magistrate who has the advantage of the substantive trial but it turns out on appeal that the third DNA test was not necessary the intended appellant could have suffered substantial loss not quantifiable in monetary terms. In obiter, it is not lost by this court that this litigation transcends the provisions of the children's Act which in its preamble states that and makes provision for 'parental responsibility, fostering, adoption, custody, maintenance, guardianship, care and protection of children; administration of children's institutions; to give effect to the principles of the Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child and for connected purposes'. The guiding principle in all the provisions relating to children is that "the best interests of the child is the first and paramount consideration" which has since been etched in our supreme law as Article 53 of *the Constitution* 2010.

The best interest of this specific child is the golden thread that must be factored in this dispute. Therefore there is a sense of compelling urgency for the parties to rise up and litigate this appeal within a reasonable time which is capped at 45 days from today's ruling. I am minded to put the parties on notice by the principles, in the case of *Van Deijil v Van Deijil* [1966] 4 SA 260 the court held that:

The interest of the minor mean the welfare of the minor and the term welfare must be taken in its widest sense to include economic, social, moral and religious considerations. Emotional needs and the ties of affection must also be taken into account and in the case of older children their wishes in the matter cannot be ignored.

38. In conclusion, since the appeal is on an interlocutory ruling of the trial court the intended appellant be and is hereby directed to canvass the issues by way of written submissions within 14 days from the delivery of this ruling. Thereafter the respondent as a rule do file rejoinder written submissions within 14 days from the date of service by the intended appellant. In this directions those famous words of the record of appeal waited to be filed by the intended appellant are hereby dispensed with by this court. The impugned ruling is the core of the appeal as this court will also exercise jurisdiction under Art 165(6) (7) of *the Constitution*.



39. It is so ordered.

DATED, SIGNED AND DELIVERED AT ELDORET THIS 11TH AUGUST 2025

.....

R. NYAKUNDI

JUDGE

In the presence of:

Ms Omalla Advocate

Mr. Rotuk for the Respondent

