

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MOMBASA
CONSTITUTIONAL & JUDICIAL REVIEW DIVISION
CONSTITUTIONAL PETITION NO. E 032 OF 2021

1. PRINCIPAL SECRETARY
 2. MINISTRY OF TRANSPORT.
 3. PRINCIPAL SECRETARY,
 4. NATIONAL TREASURY AND PLANNING
 5. ATTORNEY GENERAL
 6. SOLOMON KITUNGI
 7. DR JULIUS MUIA..... APPELLANTS/ RESPONDENTS
- VERSUS**
- KHELEF KHALIFA
WANJIRU GIKONYO.....RESPONDENTS/PETITIONERS
- KATIBA INSTITUTE.....1ST INTERESTED PARTY
THE COMMISSION ON ADMINISTRATIVE JUSTICE.....2ND INTERESTED PARTY

(Being an application for stay of execution pending appeal from the judgment and decree of the High Court of Kenya sitting at Mombasa (J. Mativo) delivered on 13th May 2022 in Mombasa H.C Petition No 032 of 2021)

BETWEEN

1. KHELEF KHALIFA
 2. WANJIRU GIKONYO..... PETITIONER
- VERSUS**
1. PRINCIPAL SECRETARY, MINISTRY OF TRANSPORT.
 2. PRINCIPAL SECRETARY,
 3. NATIONAL TREASURY AND PLANNING
 4. ATTORNEY GENERAL
 5. SOLOMON KITUNGI
 6. DR JULIUS MUIA.....RESPONDENTS
- AND**
- KATIBA INSTITUTE
THE COMMISSION ON ADMINISTRATIVE JUSTICE..... INTERESTED PARTIES

AFFIDAVIT IN SUPPORT OF URGENCY

Njau MaryEunice a resident of Mombasa and of P.O Box 82427-80100 Mombasa; working for gain in Mombasa County within the Republic of Kenya hereby make oath and state as follows :-

1. THAT I am an advocate of the High Court of Kenya , practicing as such as senior state counsel in the office of the Hon Attorney General having conduct of this matter on behalf of the appellant hence competent to swear this affidavit.
2. THAT I am aware that the Respondents / Petitioners herein had filed the Petition E32 OF 2021 seeking orders that, their right to information under article 35 of the Constitution of Kenya,2010 had been violated by the appellants due to the non-disclosure of the information requested .
3. THAT on 13th of May 2022, the Hon Justice John M. Mativo delivered a judgment against the Applicants/appellants, the judgment directed the Appellants to forthwith provide the Respondents the information sought by the Respondent/ Petitioners vide letters to the Appellants/ Respondents *dated 16th December, 2019 and 13th May, 2021.*
4. THAT the appellants being aggrieved by the Judgment delivered on 13th May, 2022 moved to the court of appeal by filing the notice of appeal and are apprehensive that if the orders sought herein are not granted, the appeal will be rendered nugatory hence they have moved this Honourable court vide the notice of motion and supporting affidavit seeking stay of implementation of orders sought pending appeal.
5. THAT having read the pleadings sworn by the appellants herein, I believe that the intended appeal will be rendered nugatory unless the application herein is certified urgent and orders sought granted because;
 - a. The appellants challenge courts narrow interpretation of Access to information Act without consideration of Article 252 of the Constitution of Kenya 2010, and the Commission on Administrative Justice Act

The appellants aver that the judge erred in analyzing dispute resolution process narrowly without consideration to the provisions of Article 252 of the Constitution of Kenya, 2010 and the Commission on Administrative Justice Act

- c. THAT the appellants seek to challenge the finding that the respondents failed to disclose the information arbitrarily hence violated claimants rights under article 35 of the Constitution of Kenya yet the appellants responded to the respondents request for information
 - d. THAT the appellants are aggrieved that court failed to establish whether the appellants had demonstrated the necessity of having the prayers granted nor was there a prima facie case for production made out
 - e. THAT the appeal contends that the court failed to consider that these documents have been exempt from disclosure because their disclosure would impact the proper functioning of affected institutions and stifle the successful implementation of the Integrated National Transport Policy whose purpose was validated in the Constitutional Petition 159 of 2018 Mombasa.
6. THAT if the orders sought herein are not granted, all documents relating to the viability, economic, social, cultural and environmental impacts assessment, feasibility studies on, and the procurement of the SGR will be released yet they are subject matter in the ongoing appeal Msa Appeal E12 OF 2021 KPA v William Ramogi
7. THAT if orders sought herein are not granted, the appellants will be compelled to disclose sensitive information which had non-disclosure clauses without the consent of the foreign governments who were parties to the contracts; leading to breach of contract terms.

THAT damages for such breach of contracts between the Republic of Kenya and the foreign governments would amount to substantial loss of public funds in billions of shillings approximately and it would be imprudent to spend significant public financial resources in a process that the court of appeal may well find to have been unnecessary.

9. THAT the appellants are apprehensive that effecting such orders will endanger the 40,000,000 million plus citizens of the Republic of Kenya, it will endanger the operations of the national government, the national security and injure the long standing foreign relations between Kenya and other states
10. THAT the respondents financial means is unknown. It is doubtful that they are capable of refunding the significant financial resources that will be incurred as a result of complying with orders issued on 13th May 2022.
11. THAT I therefore verily believe that the intended appeal is arguable, has very high chances of success and the same would be rendered nugatory unless a stay of execution of the judgment is issued.
12. THAT given the circumstances, I verily believe that considering the public interest, the constitutional issues in question and the proportionate financial magnitude tied to the subject matter of the suit herein and it is in the interest of justice that: -
 - a. the Application filed herewith be certified urgent and be admitted for hearing on priority basis,
 - b. An order of stay of execution of the judgment and orders issued on 13 May 2022 herein be issued forthwith so as to preserve the prevailing status quo pending hearing of the intended appeal.

THAT I swear this affidavit from facts within my knowledge and believing the same to be true save for matters deposed to on information and belief sources whereof upon which I have disclosed.

SWORN BY THE SAID
NJAU MARYEUNICE



)
)
Deponent

At Mombasa this day of 2022)
BEFORE ME)
COMMISSIONER FOR OATHS)

DRAWN AND FILED BY:
THE HONORABLE ATTORNEY GENERAL
ATTORNEY GENERAL'S CHAMBERS, NSSF BUILDING,
9TH FLOOR P.O. BOX 82947
MOMBASA

TO BE SERVED UPON:
EMILY KINAMA
KATIBA INSTITUTE
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PO BOX 20414-00200
NAIROBI



HIGH COURT OF KENYA
CONSTITUTIONAL AND
JUDICIAL REVIEW DIVISION

15 JUN 2022

MOMBASA

RECEIVED

REPUBLIC OF KENYA

IN THE HIGH OF KENYA AT MOMBASA

CONSTITUTIONAL & JUDICIAL REVIEW DIVISION

CONSTITUTIONAL PETITION NO. E 032 OF 2021

PRINCIPAL SECRETARY MINISTRY OF TRANSPORT

PRINCIPAL SECRETARY NATIONAL TREASURY

ATTORNEY GENERAL

SOLOMON KITUNGU

DR JULIUS MUIA.....APPELLANTS/RESPONDENTS

VERSUS

KHELEF KHALIFA

WANJIRU GIKONYO.....RESPONDENTS /PETITIONERS

AND

KATIBA INSTITUTE

COMMISSION ON ADMINISTRATIVE JUSTICE.....INTERESTED PARTIES

(Being an application for stay of execution pending appeal from the judgment and decree of the High Court of Kenya sitting at Mombasa (J. Mativo) delivered on 13th May 2022 in Mombasa H.C Petition No 032 of 2021)

BETWEEN

1. KHELEF KHALIFA

2. WANJIRU GIKONYO.....PETITIONERS

VERSUS

PRINCIPAL SECRETARY, MINISTRY OF TRANSPORT.
PRINCIPAL SECRETARY, NATIONAL TREASURY AND PLANNING
ATTORNEY GENERAL
SOLOMON KITUNGI
DR JULIUS MUIA.....

AND

KATIBA INSTITUTE
THE COMMISSION ON ADMINISTRATIVE JUSTICE..... INTERESTED PARTIES



NOTICE OF MOTION

(Under Section 3A and 3B of the Appellate Jurisdiction Act Cap 9 and Rule 5 (2) (b) & of the Court of Appeal Rules and Article 159 of the Constitution of Kenya 2010)

TAKE NOTICE THAT this Honourable Court will be moved on the 11th Day of July, 2022 at 9 O'clock in the forenoon or soon thereafter as Counsel for the Applicants may be heard on an application for **ORDERS**:

1. THAT this application be certified urgent and service thereof be dispensed with in the first instance.
2. THAT this Honourable Court be pleased to grant a stay of execution of order(c) of the judgment delivered on 13th May, 2022 pending hearing and determination of this application.
3. THAT there be a stay of execution of order (c) of the judgment delivered on 13th May, 2022 pending the lodging, hearing and determination of the intended appeal to the court of appeal
4. THAT cost of the application be in the intended appeal.

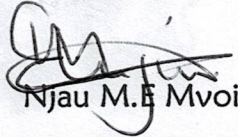
WHICH Application is premised on the following Grounds and such other grounds as to be adduced in the affidavit of Dr Julius Monzi Muia that :-

1. THAT on 13th of May 2022, the Hon Justice John M. Mativo delivered a judgment against the Appellants.

2. THAT the judgment directed the Appellants to forthwith provide the Respondents the information sought by the Respondent in his letters to the Appellants/ Respondents dated 16th December, 2019 and 13th May, 2021.
3. THAT the Respondents are seeking for the release of all contracts, documents relating to the viability, economic, social, cultural and environmental impacts assessment, documents on the feasibility studies on, and the procurement of the SGR which are subject matter of the ongoing appeal E12 OF 2021 KPA v WILLIAM ODHIAMBO & OTHERS
4. THAT the Appellants are further apprehensive that the Respondents may commence contempt proceedings aimed at compelling the Appellants to supply information that will undermine the national security of the country.
5. THAT if orders sought herein are not granted, the appellants will be compelled to disclose sensitive information which had non-disclosure clauses without the consent of the foreign governments who were parties to the contracts; leading to breach of contract terms.
6. THAT damages for such breach of contracts between the Republic of Kenya and the foreign governments and international banks would amount to losses of billions of shillings payment of which would lead to significant losses of public finances.
7. THAT the appellants are apprehensive that effecting such orders will endanger the 40,000,000 million plus citizens of the Republic of Kenya, it will endanger the operations of the national government, the national security of the nation and injure the long standing foreign relations between Kenya and other states
8. THAT it is therefore in the best interests of justice that the stay orders sought herein be issued since the respondents will have an opportunity to be heard in the court of appeal and have their case on appeal determined on merit.

5. THAT the Appellants are ready and willing to abide by the terms imposed by this Honourable Court.

DATED at MOMBASA this.....¹⁵..... Day ofJUNE..... 2022


Njau M. E. Mvoi

Senior state counsel

FOR; THE ATTORNEY GENERAL

DRAWN AND FILED BY;

THE HONORABLE ATTORNEY GENERAL

ATTORNEY GENERAL'S CHAMBERS

NSSF BUILDING, 9TH FLOOR

P.O. BOX 82947

MOMBASA

TO BE SERVED UPON;

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COMMISSION ON ADMINISTRATIVE JUSTICE

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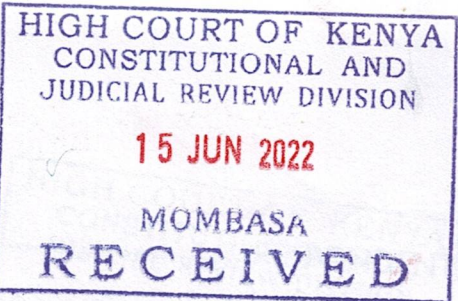
WAIYAKI WAY, WESTLANDS, 2ND FLOOR

PO BOX 20414-00200

NAIROBI

NOTICE:

If any party served does not appear at the time and place above-mentioned such order will be made and proceedings taken as the court may think just and expedient."



REPUBLIC OF KENYA
IN THE HIGH OF KENYA AT MOMBASA
CONSTITUTIONAL & JUDICIAL REVIEW DIVISION
CONSTITUTIONAL PETITION NO. E 032 OF 2021

1. PRINCIPAL SECRETARY ,MINISTRY OF TRANSPORT.
2. PRINCIPAL SECRETARY,
3. NATIONAL TREASURY AND PLANNING
4. ATTORNEY GENERAL
5. SOLOMON KITUNGI
6. DR JULIUS MUIA..... APPELLANT /RESPONDENTS

VERSUS

1. KHELEF KHALIFA
2. WANJIRU GIKONYO.....RESPONDENT/PETITIONER

AND

KATIBA INSTITUTE
THE COMMISSION ON ADMINISTRATIVE JUSTICE..... INTERESTED PARTIES

(Being an application for stay of execution pending appeal from the judgment and decree of the High Court of Kenya sitting at Mombasa (J. Mativo) delivered on 13th May 2022 in Mombasa H.C Petition No 032 of 2021)

BETWEEN

1. KHELEF KHALIFA
2. WANJIRU GIKONYO..... PETITIONER

VERSUS

1. PRINCIPAL SECRETARY,MINISTRY OF TRANSPORT.
2. PRINCIPAL SECRETARY,
3. NATIONAL TREASURY AND PLANNING
4. ATTORNEY GENERAL
5. SOLOMON KITUNGI

6. DR JULIUS MUIA.....

AND

KATIBA INSTITUTE

THE COMMISSION ON ADMINISTRATIVE JUSTICE.....

CERTIFICATE OF URGENCY

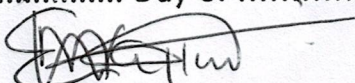


I, NJAU MARY E. MVOI, an Advocate of the High Court of Kenya, practicing as Senior State Counsel in the Hon. Attorney General's Chambers and having the conduct of this matter on behalf of the appellants herein do hereby certify that this matter is of utmost urgency and ought to be heard expeditiously and on priority basis for the following reasons:

1. THAT on 13th of May 2022, Judgment delivered by this Honourable court compelled the appellants to provide the Respondents with the information sought vide letters to the Appellants/ Respondents dated 16th December, 2019 and 13th May, 2021
2. THAT the appellants are aggrieved by the orders issued therein since disclosure of the sensitive information will amount to a gross breach of bilateral contracts between the Republic of Kenya and foreign governments
3. THAT the appellants may at any time from now be compelled to disclose sensitive information which had non-disclosure clauses without the consent of the foreign governments who were parties to the contracts.
4. THAT the appellants are apprehensive that effecting such orders will endanger the 40,000,000 million plus citizens of the Republic of Kenya, it will endanger the operations of the national government, the national security of the nation and injure the long standing foreign relations between Kenya and other states

5. THAT the appellants are reasonably apprehensive that once the information sought is provided, it will significantly influence Court of appeal's decision in civil Appeal No. E12 of 2021 being an ongoing Appeal that was filed by Kenya Ports Authority seeking stay of implementation of the directives issued by Kenya Ports Authority and emanating from the agreements between Kenya Ports Authority and Kenya Railways.
6. THAT unless the application is heard urgently and the prayers sought are granted, the respondents will at any time from now commence contempt of court proceedings to compel the appellants to disclose the subject information yet such disclosure would lead to financial losses approximately Kshs. 79 billion being the approximate value of the subject contracts and the respondents have no means of compensating the appellants such colossal sums.
7. THAT it would be very futile and defeat purpose of justice if the appellants pursues its appeal successfully while the sensitive documents sought have already been released to the public and the damages for breach of international commercial contracts paid from public finances to the tune of Kshs. 79 billion.
8. THAT it is in the best interests of justice therefore that orders herein are granted since the respondents will have an opportunity to appear in court and participate in the proceedings.

DATED at MOMBASA this.....15..... Day ofJune..... 2022


Njau Mary E. Mvoi

Senior State Counsel

FOR: ATTORNEY GENERAL

DRAWN AND FILED BY:
THE HONORABLE ATTORNEY GENERAL
ATTORNEY GENERAL'S CHAMBERS
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(Being an application for stay of execution pending appeal from the judgment and decree of the High Court of Kenya sitting at Mombasa (J. Matia) delivered on 13th May 2021 in Matia vs MC Petition No. 032 of 2021)

BETWEEN

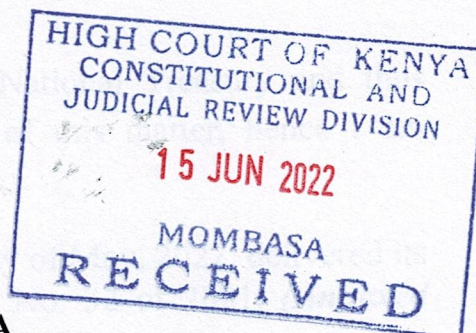
1. KNELE KHALIFA
2. WAKURU GIMONYO PETITIONER

VERSUS

1. PRINCIPAL SECRETARY, MINISTRY OF TRANSPORT
2. PRINCIPAL SECRETARY
3. NATIONAL TREASURY AND PLANNING
4. ATTORNEY GENERAL
5. SOLOMON KIJUNGI
6. DR. JULIUS NJIRU RESPONDENTS

AND

KATIBA INSTITUTE
THE COMMISSION ON ADMINISTRATIVE JUSTICE INTERESTED PARTIES



REPUBLIC OF KENYA
IN THE HIGH OF KENYA AT MOMBASA
CONSTITUTIONAL & JUDICIAL REVIEW DIVISION
CONSTITUTIONAL PETITION NO. E 032 OF 2021

PRINCIPAL SECRETARY,
MINISTRY OF TRANSPORT..... 1ST APPELLANT/RESPONDENT
PRINCIPAL SECRETARY,
NATIONAL TREASURY..... 2ND APPELLANT/RESPONDENT
ATTORNEY GENERAL..... 3RD APPELLANT/RESPONDENT
SOLOMON KITUNGU..... 4TH APPELLANT/RESPONDENT
DR. JULIUS MUIA..... 5TH APPELLANT/RESPONDENT

VERSUS

KHELEF KHALIFA..... 1ST RESPONDENT/PETITIONER
WANJIRU GIKONYO..... 2ND RESPONDENT/PETITIONER
KATIBA INSTITUTE..... 1ST INTERESTED PARTY
THE COMMISSION ON ADMINISTRATIVE
JUSTICE..... 2ND INTERESTED PARTY

(Being an application brought Under Rule 5 (2) (b) and Rule 47 of the Court of Appeal Rules 2010, Article 159 of the Constitution of Kenya 2010 for a stay of execution of a judgment of the Constitutional Petition Court of Kenya at Mombasa (Hon. John M. Mativo) dated 13th May, 2022) in HCC MSA CONST PET No 032/2021 pending the lodging, hearing and determination of the intended appeal)

SUPPORTING AFFIDAVIT

I, **DR. JULIUS MONZI MUIA**, of Post Office Box Number 30007 - 00100, Nairobi and a resident of Nairobi within the Republic of Kenya, do hereby make oath and state as follows: -

THAT I am the Principal Secretary of the National Treasury and thus conversant with the facts and circumstances of this matter, hence I am competent and authorized to swear this affidavit.

2. **THAT** the Mombasa High Court, on the 13th day of May, 2022, delivered its Judgment in Mombasa Constitutional Petition No. 32 of 2021. (*Annexed and marked JMM 1 is a copy of the said Judgment*)
3. **THAT** the Appellants herein being dissatisfied with the said Judgment have lodged a Notice of Appeal in this court. (*Annexed and marked JMM 2(a) and (b) is a copy of the said Notice of Appeal and letter asking for typed proceedings*)
4. **THAT** the matter in issue was substantially the same in *Constitutional Petition No. 159 of 2018: William Ramogi & Others vs Ministry of Transport, 7 Others & Muhuri* herein referred to as Constitutional Petition No. 159 of 2018.
5. **THAT** the Respondents are seeking to be furnished with all documents relating to the viability, economic, social, cultural and environmental impacts assessment in relation to the Standard Gauge Railway (SGR) yet the Respondents being the 1st and 2nd Interested Parties in the Mombasa Constitutional Petition No. 159 of 2018 annexed various documents regarding the feasibility studies and the procurement of the SGR in support of the averments in that Petitions while Kenya Railway Corporation availed the Environmental Impact Assessments.
6. **THAT** in Constitutional Petition No. 159 of 2018, the Appellants addressed the allegations of violation of the principle of accountability by the National Government taking the sovereign loan from Exim Bank in order to finance the development of the railway infrastructure.
7. **THAT** the Appellants are further apprehensive that the Respondents may commence Contempt of Court Proceedings to compel the Applicants to provide information that would undermine national security of the country.
8. **THAT** the disclosure of information sought would endanger national security of the nation and injure the foreign relations between the states that the Republic of Kenya has entered into vide the bilateral agreements and it would stifle successful implementation of the Integrated National Transport Policy.

- THAT** the disclosure of the information will cause substantial harm to the ability of the Government of Kenya to manage the economy.
10. **THAT** the management of economy is of utmost importance to every citizen and not only the Petitioners.
11. **THAT** the Respondents have a right to have the documents in question by petitioning Parliament which deliberates on and resolves issues of concern to the people as provided for under Article 95 of the Constitution.
12. **THAT** any unstructured disclosure of the documents could expose the Government to serious bilateral relations conflict since the contract in question carry binding non-disclosure clauses.
13. **THAT** the contracts and documents being sought are secret in nature and the Appellants are prohibited from disclosing them pursuant to section 3(6) and (7) of the Official Secrets Act, Cap 187 Laws of Kenya and that the same is constitutional and protected under section 6(1) and (2) of the Access to Information Act.
14. **THAT** the disclosure of the information being sought by the Respondents will affect Court of Appeal's decision-making process in civil Appeal No. E12 of 2021 being an Appeal by Kenya Ports Authority against the orders of the Court issued on 6th November, 2020 in the **Consolidated Petitions No. 159 of 2018 and 201 of 2019** and impede the due process of law; noting that the Appeal is ongoing.
15. **THAT** the Respondents failed to follow due legal process of dispute resolution provided under the Access to Information Act No. 31 of 2016.
16. **THAT** the Petition in this suit was premature and an abuse of the Court process pursuant to section 23 of the Access to Information Act No. 31 of 2016 where the honourable Court has been granted appellate jurisdiction.
17. **THAT** the Appellants are apprehensive that unless the Judgment issued on 13th May, 2022 is set aside and/or stayed, the Respondents may commence contempt of court proceedings to compel the Applicants to disclose information that would undermine national security of the country.
18. **THAT** in view of the foregoing, it is in the interest of justice that an order of stay of execution of the said judgment and orders issued therein, be issued forthwith so as to preserve the subject matter of the intended appeal.

DEPONENT

DEPONENT

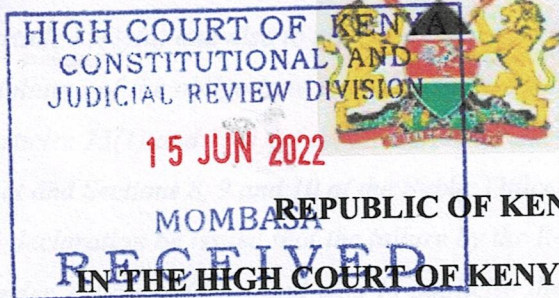
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)

)

EMILY KINAMA
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COMMISSION ON ADMINISTRATIVE JUSTICE
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PO BOX 20414-00200
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This is the exhibit marked "JMM" referred to in the annexed affidavit/declaration of Dr. Julius Muriu Muiia sworn before me this 16th day of June 2022

[Signature]
Commissioner for Oaths

CONSTITUTIONAL & JUDICIAL REVIEW DIVISION

CONSTITUTIONAL PETITION NO. E 032 OF 2021

KHELIF KHALIFA.....1st PETITIONER

WANJIRU GIKONYO.....2nd PETITIONER

VS

PRINCIPAL SECRETARY, MINISTRY OF TRANSPORT.....1st RESPONDENT

PRINCIPAL SECRETARY, NATIONAL TREASURY & PLANNING.....2nd RESPONDENT

ATTORNEY GENERAL.....3rd RESPONDENT

SOLOMON KITUNGU.....4th RESPONDENT

DR. JULIUS MUIA.....5th RESPONDENT

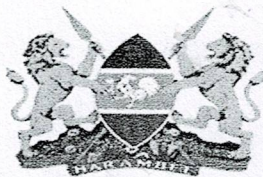
KATIBA INSTITUTE.....1st INTERESTED PARTY

THE COMMISSION ON ADMINISTRATIVE JUSTICE.....2nd INTERESTED PARTY

JUDGMENT

1. By a Petition dated 21st June 2021, the Petitioners herein, Khelif Khalifa and Wanjiru Gokonyo implore this court to issue a raft of orders, namely: -

- a) A declaration that the failure by the Respondents to provide information sought under Article 35(1)(a) and also to publicise the information in accordance with Article 35(3) on the basis of the 1st Petitioner's request dated 16th December 2019 is a violation of the right to access to information.
- b) A declaration that the failure by the Respondents to provide information sought under Article 35(1)(a) and also to publicise the information in accordance with Article 35(3) on the basis of the 1st Petitioner's request dated December 16, 2019 is a violation of Article 10 of the constitution and specifically the values of the rule of law, participation of the people, human rights, good governance, transparency and accountability.

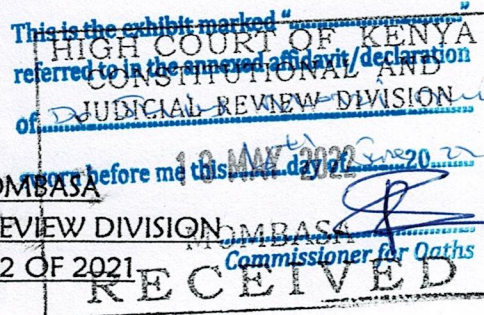


REPUBLIC OF KENYA

IN HIGH COURT OF KENYA AT MOMBASA

MOMBASA CONSTITUTIONAL & JUDICIAL REVIEW DIVISION

CONSTITUTIONAL PETITION NO E.032 OF 2021



KHELEF KHALIFA

WANJIRU GIKONYO.....PETITIONERS

VERSUS

1. PRINCIPAL SECRETARY, MINISTRY OF TRANSPORT
2. PRINCIPAL SECRETARY, NATIONAL TREASURY AND PLANNING
3. ATTORNEY GENERAL
4. SOLOMON KITUNGI
5. DR JULIUS MUIA.....RESPONDENTS

1. KATIBA INSTITUTE
2. THE COMMISSION ON ADMINISTRATIVE JUSTICE.....INTERESTED PARTIES

NOTICE OF APPEAL

TAKE NOTICE that the Respondents herein being dissatisfied with the entire judgment and orders of Honourable Justice M. Mativo in the High Court of Kenya, Constitutional & Judicial Review Division at Mombasa on 13th May 2022 intends to appeal to the Court of Appeal against the said judgment.

The Appellants' address of service is care of The Honorable Attorney General, Attorney General's Chambers, 9th Floor, Social Security House, Nkrumah Road, Mombasa and whose postal address is P.O. 82427-80100, MOMBASA.

Email: agmombasa@gmail.com

It is intended to serve copies of this Notice on;

Otieno Ogola & Co Advocates
Office Suite B11, 11th Floor CMC Africa House
PO BOX 22671-00100
Nairobi

Commission on Administrative Justice
Commission on Administrative Justice
2nd Floor, West End Towers
Waiyaki Way, Westlands, 2nd Floor
P.O Box 20414-00200 Nairobi

Emily Kinama
Katiba Institute
PO BOX 2658-00100
NAIROBI

DATED at MOMBASA this.....13.....day of...MAY.....2022

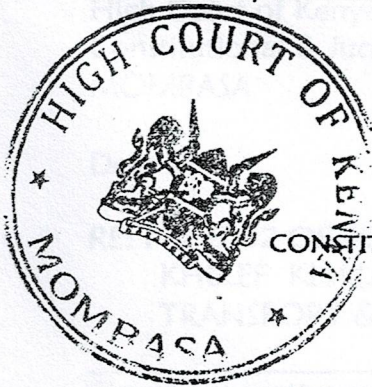
Njau Mary E. Mvoi

SENIOR STATE COUNSEL

FOR: HON ATTORNEY GENERAL

THE DEPUTY REGISTRAR
HIGH COURT OF KENYA AT MOMBASA
CONSTITUTIONAL & JUDICIAL REVIEW DIVISION
MOMBASA

Lodged in the High Court of Kenya Mombasa, Constitutional & Judicial Review Registry at Mombasa on
the 16 day of May 2022.



DEPUTY REGISTRAR
HIGH COURT
CONSTITUTIONAL & JUDICIAL REVIEW DIVISION
AT MOMBASA

We note that judgment in this matter was delivered today, 13th May 2022. We request that you furnish us with certified copies of the said proceedings to enable us constitute the record of appeal.

Yours faithfully,
For MOMBASA JUDICIAL REVIEW DIVISION

COPY TO
Office of the Deputy Registrar
Office No. 811, 1st Floor CMC Africa House
PO BOX 12571-00100
NAIROBI

Copy to
Public Interest
PO BOX 2638-00100
NAIROBI

DEPARTMENT OF EDUCATION, 1st FLOOR, MINISTRY OF EDUCATION

PO BOX 2638-00100, NAIROBI, KENYA. TEL: 011-2111111

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For more information, please visit our website at www.mombasa.judicialreview.division or contact our office at 011-2111111

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REPUBLIC OF KENYA
OFFICE OF THE HON. ATTORNEY GENERAL
&
DEPARTMENT OF JUSTICE

This is the exhibit marked "JMM.2(b)"
referred to in the annexed affidavit/declaration
of Dr. Shuaib Muriu
sworn before me this 14th day of May 2022

When replying please quote:

Ref No. AG/PET/CIV 221/21

Date: 13/5/2022

Commissioner for Oaths

Your Ref;
Deputy Registrar
High Court of Kenya at Mombasa,
Constitutional & Judicial Review Division
MOMBASA

HIGH COURT OF KENYA
CONSTITUTIONAL AND
JUDICIAL REVIEW DIVISION

13 MAY 2022

MOMBASA

RECEIVED

Dear Sirs

RE: PET E032 OF 2021

KHELEF KHALIFA & ANOR VERSUS PRINCIPAL SECRETARY MINISTRY OF
TRANSPORT & OTHERS

The above matter refers.

We note that judgment in this matter was delivered today, 13th May 2022. We request that you furnish us with certified copies of the typed proceedings to enable us constitute the record of appeal.


Njau E Mvoi
Senior Litigation Counsel
For: HON ATTORNEY GENERAL

Copy to:

Otieno Ogola & Co Advocates
Office Suite B11, 11th Floor CMC Africa House
PO BOX 22671-00100
NAIROBI

Emily Kinama
Katiba Institute
PO BOX 2658-00100
NAIROBI

DEPARTMENT OF CIVIL LITIGATION, NSSF BUILDING, 9TH FLOOR, NKURUMAH ROAD
P.O. BOX 82427-80100 – MOMBASA, Tel: 041-2313195

WEBSITE: www.attorney-general.go.ke

OUR MISSION: To be the most efficient and effective department in the provision of legal services to the National Government, its Departments and State Corporations.

**Interested Party submissions Khelef Khalifa and ANother v CS
and Others Mombasa Petition No. E 032 of 2021**

Attorneylitigation mombasa <attorneylitigation2020@gmail.com>

Thu, May 19, 2022 at 5:26 PM

the law office <agmombasa@gmail.com>, willis otieno <willisotieno51@gmail.com>, Emily Kinama

kinama@katibainstitute.org>, f.mumbi@ombudsman.go.ke

Dear Sirs

Kindly find the attached notice duly served upon yourselves.

Regards

Regards,

Ms Kinam

On Fri, Feb 25, 2022 at 11:18 AM Emily Kinama <emily.kinama@katibainstitute.org> wrote:

[Quoted text hidden]



NOTICE OF APPEAL AND LETTER.pdf

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