



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA  
AT MERU**

**CONSTITUTIONAL PETITION NO E009 OF 2021**

**IN THE MATTER OF CONSTITUTION OF KENYA ARTICLES 1, 2(1) & (2) & (5), 3(1) & (2), 4(2), 10, 19, 20, 21, 22(1) & (2) (b) & (c), 23(1), 24(1), 3(1) (a), 35, 38(1), 47(1) & (2), 48, 50, 52, 93, 96, 165(3) (b) & (d) (ii), 73(1), 75(1) (c), 174, 175, 181, 196(1) (b), 200, 258, 259, 260**

**AND**

**IN THE MATTER OF ARTICLES 1, 2, 3, 47, 50(b) & (c), 181 OF THE CONSTITUTION OF KENYA**

**AND**

**IN THE MATTER OF THE CONSTITUTION OF KENYA (PROTECTION OF RIGHTS AND FUNDAMENTAL FREEDOMS PRACTICE AND PROCEDURE RULES 2013**

**AND**

**IN THE MATTER OF ARTICLES 1, 3, 25(a) OF THE INTERNATIONAL CONVENTION ON CIVIL AND POLITICAL RIGHTS OF 1966**

**AND**

**IN THE MATTER OF THE COUNTY GOVERNMENT ACT 2012, SECTIONS 8, 30, 31, 33(1) & (2), 87**

**AND**

**IN THE MATTER OF THE STANDING ORDER NO 67 OF THE WAJIR COUNTY ASSEMBLY STANDING ORDERS**

**AND**

**IN THE MATTER OF THE INTENDED REMOVAL FROM OFFICE OF THE GOVERNOR OF WAJIR COUNTY BY WAY OF IMPEACHMENT**

**BETWEEN**

**ADEN IBRAHIM MOHAMMED.....1<sup>ST</sup> PETITIONER**

OMAR JELE ABDI.....2<sup>ND</sup> PETITIONER  
BASHIR AHMED HUSSEIN.....3<sup>RD</sup> PETITIONER  
SAFIYA MAHAMED ABDI.....4<sup>TH</sup> PETITIONER  
YUSSUF IBRAHIM DIMBIL.....5<sup>TH</sup> PETITIONER  
COUNCIL OF GOVERNORS.....6<sup>TH</sup> PETITIONER

**VERSUS**

COUNTY ASSEMBLY OF WAJIR.....1<sup>ST</sup> RESPONDENT  
CLERK OF THE COUNTY ASSEMBLY OF WAJIR.....2<sup>ND</sup> RESPONDENT  
SPEAKER OF THE WAJIR COUNTY ASSEMBLY.....3<sup>RD</sup> RESPONDENT  
ABDULLAHI ISSACK.....4<sup>TH</sup> RESPONDENT  
SPEAKER OF THE SENATE.....5<sup>TH</sup> RESPONDENT  
THE SENATE.....6<sup>TH</sup> RESPONDENT  
THE ATTORNEY GENERAL.....7<sup>TH</sup> RESPONDENT

**AND**

**HE. THE GOVERNOR OF WAJIR COUNTY AMB. MOHAMMED ABDI  
MOHAMMUD.....1<sup>ST</sup> INTERESTED PARTY  
THE DEPUTY GOVERNOR AHMED ALI MUKHTAR...2<sup>ND</sup> INTERESTED PARTY  
THE CHIEF REGISTRAR OF THE HIGH COURT.....3<sup>RD</sup> INTERESTED PARTY  
ASSUMPTION OF OFFICE COMMITTEE.....4<sup>TH</sup> INTERESTED PARTY**

**DIRECTIONS**

The two Petitions disclose the same cause of action regarding the removal of the 1<sup>st</sup> Interested Party in No E009 of 2021 and the 1<sup>st</sup> Petitioner in No 17 of 2021. We see possibility of similar question of law arising for determination in both.

Where such is in cause, the Rules 17 of the Constitution of Kenya (Protection of rights and fundamental freedoms) Practice and Procedure Rules, 2013. Rules permit the consolidation of such petitions either on own notion by the court or upon application. We consider that to be one of the tools designed to achieve overriding objectives of the court and that of the Rules.

With that appreciation we direct that the two petitions be consolidated and heard together.

In directing that the Petitions be consolidated, we have given due regard to the concerns raised by counsel for the 1<sup>st</sup> – 4<sup>th</sup> Respondents and take the view that the question of competence of a Petition even if taken as a Preliminary point can be raised and argued as an opposition to the petition and not separately to help with efficient employed of judicial time.

We have equally given due regard to the concerns by counsel for the 2<sup>nd</sup> Interested Party on his application for discharge of the interim orders and we take the view that consolidation doesn't take away or subtract from a parties' position in the pleadings.

We see no prejudice being visited upon any of the parties by the order of consolidation.

For purposes of offering submissions in the consolidated petition, Professor Ojienda from the 1<sup>st</sup> Interested party in Petition No E009 of 2021 and 1<sup>st</sup> Petitioner in No E017 OF 2021 shall present his case as the Petitioner while Mr. Issa for 2<sup>nd</sup> Interested Party in Petition E007 of 2021 and 3<sup>rd</sup> Respondent in Petition No 17 of 2021 shall submit as a Respondent and address both Petitions.

### **TIME ALLOCATION**

- i. The Petitioners shall have 1 hour to be shared between the two counsels.
- ii. The Respondents represented by S. C. Ahmeednassir and Mr. Issa, shall share one hour between them while Ms. Thanji will rely on the Written Submissions filed.
- iii. Thereafter the Petitioners will have ten (10) minutes each to respond to anything arising on a point of law from the submissions by the Respondents.

Mr. Issa will then have ten (10) minutes to respond to any question of law raised by the Petitioner in opposition to his application for setting aside.

**DATED AND DELIVERED AT MERU THIS 20<sup>TH</sup> DAY OF DECEMBER, 2021**

**EDWARD MURIITHI**

**PATRICK J.O OTIENO**

**WAMAE T.W CHERERE**

**PRESIDING JUDGE**

**JUDGE**

**JUDGE**



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