



**Computech Limited v Leakey's Auctioneers & another (Constitutional Petition 280 of 2019)
[2022] KEHC 13225 (KLR) (Constitutional and Human Rights) (30 September 2022) (Judgment)**

Neutral citation: [2022] KEHC 13225 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CONSTITUTIONAL AND HUMAN RIGHTS
CONSTITUTIONAL PETITION 280 OF 2019
HI ONG'UDI, J
SEPTEMBER 30, 2022
IN THE MATTER OF ARTICLES 10, 22(1), AND 23(3),
40(1), & (2), 159(2), 165(3), 176 AND 232 OF THE
CONSTITUTION OF KENYA, 2010
AND
IN THE MATTER OF PROCLAMATION OF ATTACHMENT
NOTICES DATED 3RD JULY, 2019**

BETWEEN

COMPUTECH LIMITED PETITIONER

AND

LEAKEY'S AUCTIONEERS 1ST RESPONDENT

KENYA REVENUE AUTHORITY 2ND RESPONDENT

JUDGMENT

1. The petition dated July 16, 2019 was filed under articles 10, 22(1), 23(3), 40(1) & (2), 159(2), 165(3), 176 and 232 of the *Constitution* in the matter of proclamation of attachment notice dated July 3, 2019. Accordingly the petition seeks orders that:
 - i. A conservatory order by way of injunction be issued staying the decision of the 1st respondent in proclaiming and attaching the petitioner's property or in any manner collecting, removing them or offering for sale in an attempt to recover the tax debt due from Direct Specialist Company Limited.



- ii. An order of prohibition be issued prohibiting the respondents jointly and severally from enforcing and/or undertaking any further steps or actions in furtherance of the proclamation of attachment notice dated July 3, 2019 on the petitioner's goods.
- iii. An order of prohibition be issued prohibiting the respondents from enforcing and/or undertaking any further steps or actions in furtherance of the proclamation of attachment notice dated July 3, 2019 pending the hearing and determination of the petition filed herein.
- iv. An order do issue finding that the attachment of the petitioner's goods by the respondents violated the petitioner's right to property and therefore do order the respondents to pay general damages for unlawful attachment.
- v. Any other order that the court may deem necessary for the ends of justice.
- vi. The costs of this petition be borne by the respondents.

The Petitioner's Case

2. The crux of this petition, as supported by the averments in the petitioner's affidavit of James Kariuki, sworn on July 16, 2019 the petitioner's regional accountant, is the respondent's proclamation of attachment notice dated July 3, 2019 also known as a distress order.
3. He deposed that the 1st respondent as an agent of the 2nd respondent visited the petitioner's office on July 3, 2019 and proclaimed the petitioner's property in view of recovering owed tax arrears penalties due to the 2nd respondent.
4. He deposed further that the proclamation of attachment notice having been addressed to Direct Specialists Company Limited should not have involved the petitioners property. Thus the attachment of the petitioners property was wrongful and made in bad faith. He also averred that the tax issue arising from the proclamation notice is between the respondents and Direct Specialists Company Limited and hence the matter cannot be handled under the provisions of the [Tax Procedures Act](#).
5. He averred that this action violated the petitioner's right to property as envisaged under article 40 of the [Constitution](#).

The 1st Respondent's Case

6. The 1st respondent did not file response to the petition.

The 2nd Respondent's Case

7. The 2nd respondent filed a replying affidavit dated September 30, 2019 as sworn by Edina Nyasita Kabaka, the 2nd respondent's employee in the domestic taxes department. She deposed that the 2nd respondent had over the years experienced problems in assessing, collecting and accounting for all tax revenues due to various acts and omissions perpetrated by some traders leading to substantial loss of government revenue.
8. She further averred that the [Tax Procedures Act](#) was enacted to offer robust provisions to the effect that when a taxpayer has a tax liability in relation to a business carried on by him and he/she transfers some or all of the assets of the business to a related person, the transferee is deemed liable for tax liability of the transferor. She deposed that section 8 of the [Tax Procedures Act](#), 2015, section 160 of the [Income Tax Act](#) and section 34 of the [Value Added Tax Act](#) place an obligation on anyone with accrued tax



- liability to register for registration. This is by, providing its details including names and contacts of directors and updating its tax status therein regularly.
9. Likewise, the directors of a company are under an obligation to ensure that any transfer in ownership is communicated to the respondent as and when it happens. This information accordingly guides the 1st respondent with reference to tax obligations and management of the tax affairs of that taxpayer.
 10. She deposed that as per the petitioner's registered tax profile, it is disclosed that the petitioner and Direct Specialist Company Limited have common directors for tax purposes. The directors are Hassan Noorali ChturBahi Popat and Dipak Shantilal Zaverchand Shah. Further that, the two companies have the same postal address being P.O Box 59789 -00200 Nairobi for their tax purposes. Similarly that, the other director of Direct Specialist Company Limited is also listed as the director of the petitioner. Moreover it was deposed that the operations of Direct Specialist Company Limited were carried out in the same premises as that of the petitioner.
 11. She deposed that the 2nd respondent prior to the impugned notice had issued the petitioner with the demand for VAT amounting to Ksh 12,548,954/= on the company's behalf which was served on the petitioner and correspondence directed to the cited directors as had always been done and feedback received. It is deposed that upon failure to pay the arrears, the 2nd respondent was forced to invoke the provisions of the [Tax Procedures Act](#) to collect the taxes. In making its decision the 2nd respondent relied on the information of directorship supplied in the companies' tax profile as is the norm.
 12. She further averred that the petitioner did not issue any notice to the respondents' on taking over the business of the taxpayer as required under the [Value Added Tax Act](#) so that the respondents could raise the issue of tax liability. This is because the only way the ownership of Direct Specialist Company Limited could have changed was through a transfer which the petitioner is required to notify the 2nd respondent about.
 13. She further deposed that at all material times when tax liability arose it is directors, Hassan Noorali ChturBahi Popat and Dipak Shantilal Zaverchand Shah who had full control of the Direct Specialist Company Limited for tax purposes. She stated that under section 18 of the [Tax Procedure Act](#), provides that where an arrangement has been entered into by any director, general manager, company secretary, or other senior officer or controlling member of the company with the intention or effect of rendering a company unable to satisfy a current or future tax liability under a tax law, every person who was a director or controlling member of the company when the arrangement was entered into shall be jointly and severally liable for the tax liability of the company.
 14. It was therefore averred that the respondents at that point were at liberty to undertake recovery measures from the assets of the directors as mandated by the [Tax Procedure Act](#). She further deposed that this measure was effected on July 3, 2019 through the impugned notice in line with section 41 of the [Tax Procedures Act](#) for the liability of Direct Specialist Company Limited. This was accordingly served on the petitioner's company on the material day at their office premise.
 15. She deposed that the petitioner's action was geared towards circumventing the law with a view of evading payment of taxes. This is since the two companies share the same directors and further that the petitioners did not issue the required notice under the [Transfer of Business Act](#). As such she stressed that the respondents were well within their legal mandate to issue the impugned notice.
 16. Finally she averred that the petition is premature as the petitioner failed to exhaust the existing mechanisms available in law before approaching this court. Similarly that the petition does not raise any constitutional issues as it is solely based on the enforcement of the tax law, a matter that can be effectively addressed by the Tax Appeal Tribunal. She urged the court to dismiss the petition.



The Petitioner's Submissions

17. The firm of Mogeni and Company Advocates on behalf of the petitioner filed written submissions dated July 21, 2020, plus further submissions dated November 10, 2020. Counsel submitted that the essence of the petition was that the respondents proclamation notice of distress dated July 3, 2019 that attached the petitioner's property would arbitrarily deprive the petitioner of their property as safeguarded under article 40 of the Constitution. He argued that companies enjoyed separate legal entity and thus the subscribers were not liable for any of the company's liabilities as set out in Salomon v Salomon & Co Ltd (1897) AC22.
18. He further submitted that the question as to whether the tax profile of the director is the same does not in any way lift the veil of incorporation and does not make the two distinct legal personalities the same. As such any attempt to state that they are the same for purposes of taxation is not legal.
19. In opposing the applicability of section 18 of the Tax Procedure Act counsel argued that section 18(4) of the Tax Procedure Act defines arrangement as any contract, agreement, plan or understanding, or an act whether express or implied and whether or not enforceable in legal proceedings which is contrary to the provision of a tax law.
20. Counsel argued that the provision of section 18 of the Tax Procedure Act does not refer to any other company as alluded to by the 2nd respondent. Further that it refers to a company where an arrangement has been entered into by any director, general manager, company secretary, or other senior officer, it was contended therefore that the respondent had not shown any contract, agreement, plan or understanding between the petitioner and Direct Specialist Company Limited.

The 2nd Respondent's Submissions

21. The 2nd respondent through the firm of G.O Ochieng Advocates filed written submissions dated June 21, 2021. Counsel identified the issues for determination as:
 - i. Whether the petition is a breach of the doctrine of exhaustion.
 - ii. Whether there is a constitutional question that this honorable court should address itself to.
 - iii. Whether the 2nd respondent was allowed in law to proclaim the assets of the petitioners; and
 - iv. Whether the proclamation was in breach of article 40 of the Constitution in enforcing tax liability on the petitioner.
22. On the first issue, counsel submitted that the decision by the 2nd respondent to proclaim was issued under section 42 as read with section 18 and 46 all of the Tax Procedures Act. Accordingly counsel stated that section 52 of the Tax Procedures Act provides that a person who is dissatisfied with an appealable decision may appeal the decision to the tribunal in accordance with the provisions of the Tax Appeals Tribunal Act.
23. Counsel further noted that a person who is aggrieved by any decision made under a tax law should first pursue the alternative remedies provided in law. In support he cited the Court of Appeal case of *Speaker of National Assembly v Karume* [1992] KLR 21 where it was held that where there is a clear procedure for redress of any particular grievance prescribed by the Constitution or an Act of parliament, that procedure should be strictly followed.



24. Additional reliance was placed on the Court of Appeal case of *Geoffrey Muthinja Kabiru & 2 others v Samuel Munga Henry & 1756 others* (2015) eKLR and the case of *Republic v Kenya Revenue Authority, Commissioner Ex parte Keycorp Real advisory Limited* (2019) eKLR.
25. On the second issue counsel noted that the dispute herein was whether the notice of distress issued by the respondent was proper in law. It was submitted that the matter neither requires this court to interpret the *Constitution* nor does it contest the constitutionality of the law which mandated the respondent to take the actions herein which is the foundation of constitutional petitions.
26. Relying on the case of *Beekey Supplies Limited & another v Attorney General & another* [2017] eKLR, counsel submitted that courts must guard against improper transmission of normal disputes or ordinary issues of litigation being clothed in constitutional petitions. He also cited the cases of *Master Freighters Limited v Kenya Bureau of Standards & another* [2019] eKLR; *Kenya Builders & Concrete Company Limited v National Government Constituency Development Fund Committee- Embakasi South & another* [2017] eKLR and *Grain Bulk Handlers Ltd v Kenya Revenue Authority & 2 others* [2018] eKLR in support.
27. On the third issue, counsel while relying on the 2nd respondent's replying affidavit contended that the respondent was at liberty to pursue the taxes from the petitioner pursuant to section 18 and 47 of the *Tax Procedure Act*. This is because no notice of transfer was issued to the respondent on the petitioner's takeover and control of direct specialist. It was argued that a company through legal persons operates through human agents and it is these agents who are liable for its actions as was held in the case of *Agricultural Development Corporation of Kenya v Nathaniel K Tum & another* (2014) eKLR.
28. Following on this counsel submitted that the respondent was allowed to proclaim the petitioner as an asset of the sole director to meet the tax liability of the Direct Specialist Company Limited. Further that the 2nd respondent issued the distress orders to the petitioner who at all times received the Direct Specialist Company Limited's demand notice of Ksh 12,548,954/= and upon receipt of this notice, the petitioner's director made arrangements and paid the taxes that were due.
29. In view of this was counsel submitted that the petitioner could not now turn around and claim that the petitioner and Direct Specialist Company Limited are two different companies when in the past they had received the tax demands from the respondent and acted upon them. He relied on the doctrine of estoppel by representation as discussed in *Titus Muiruri Doge v Kenya Cannery Ltd* [1988] eKLR, and *Carol Construction Engineers Limited & another v National Bank of Kenya* [2020] eKLR.
30. Lastly, counsel submitted that the petitioner could not plead the right to property as against taxation. It was noted that courts had on several occasions found that taxation is not a breach of the right to property as seen in the cases of *George Lesaloi Selelo & another v Commissioner General, KRA & 4 others;- Pevans EA Limited (t/a-Sportpesa) & 3others* (2019) eKLR and *Timothy Njoya & 17 others v Attorney General & 4 others* [2013] eKLR. Accordingly he concluded by submitting that the petitioner could not plead that a tax levied according to the law is unconstitutional.

Analysis and determination

31. I have carefully considered the pleadings, submissions, cited cases and the law. The falling for determination are: From the foregoing account, the issues that arise for determination are:
 - i. Whether the petition invokes the doctrine of exhaustion.
 - ii. Whether the petition raises a constitutional question.
 - iii. Whether respondent violated the petitioner's rights under articles 40 of the *Constitution*.



- iv. Whether the petitioner is entitled to the reliefs sought.

Issue No. (i). Whether the petition invokes the doctrine of exhaustion

32. The 2nd respondent in its pleadings highlighted that the petitioner had failed to adhere to the laid down dispute procedure set out under the Tax Procedure Act. This is since the issue relates to a decision under the statute. The petitioner on the other hand opposed the application of the provisions of the Act in the circumstances of this case as the respondents had not shown any contract, agreement, plan or understanding between the petitioner and Direct Specialist Company Limited.
33. It has been held severally by the courts that a party is required to exhaust any available alternative dispute resolution mechanism before filing a matter in court. To this end the Court of Appeal in the case of *Geoffrey Muthinja & another* (supra) observed as follows:

“It is imperative that where a dispute resolution mechanism exists outside courts, the same be exhausted before the jurisdiction of the courts is invoked. Courts ought to be the fora of last resort and not the first port of call the moment a storm brews within churches, as is bound to happen. The exhaustion doctrine is a sound one and serves the purpose of ensuring that there is a postponement of judicial consideration of matters to ensure that a party is first of all diligent in the protection of his own interest within the mechanisms in place for resolution outside of courts. This accords with article 159 of the Constitution which commands courts to encourage alternative means of dispute resolution.”

34. Bearing this in mind the question that should be answered is what then invokes the doctrine of exhaustion in the context of litigation. This was aptly discussed by the five judge bench in the case of *William Odhiambo Ramogi & 3 others v Attorney General & 4 others; Muslims for Human Rights & 2 others (Interested Parties)* [2020] eKLR where they opined as follows:

“ 52. The question of exhaustion of administrative remedies arises when a litigant, aggrieved by an agency’s action, seeks redress from a court of law on an action without pursuing available remedies before the agency itself. The exhaustion doctrine serves the purpose of ensuring that there is a postponement of judicial consideration of matters to ensure that a party is, first of all, diligent in the protection of his own interest within the mechanisms in place for resolution outside the courts...”

35. The court went on to outline the exceptions to the rule as follows:

“ 60. As observed above, the first principle is that the High Court may, in exceptional circumstances consider, and determine that the exhaustion requirement would not serve the values enshrined in the Constitution or law and allow the suit to proceed before it. It is also essential for the court to consider the suitability of the appeal mechanism available in the context of the particular case and determine whether it is suitable to determine the issues raised.

61. The second principle is that the jurisdiction of the courts to consider valid grievances from parties who lack adequate audience before a forum created by a statute, or who may not have the quality of audience before the forum which is proportionate to the interests the party wishes to advance in a suit must not be ousted. The rationale behind this precept is that statutory



provisions ousting court's jurisdiction must be construed restrictively. This was extensively elaborated by Mativo J in *Night Rose Cosmetics (1972) Ltd v Nairobi County Government & 2 others* [2018] eKLR.

62. In the instant case, the petitioners allege violation of their fundamental rights. Where a suit primarily seeks to enforce fundamental rights and freedoms and it is demonstrated that the claimed constitutional violations are not mere "bootstraps" or merely framed in bill of rights language as a pretext to gain entry to the court, it is not barred by the doctrine of exhaustion. This is especially so because the enforcement of fundamental rights or freedoms is a question which can only be determined by the High Court."

36. Similarly the court in the case of *Krystalline Salt Limited v Kenya Revenue Authority* (2019) eKLR on this issue opined as follows:

"What constitutes exceptional circumstances depends on the facts and circumstances of the case and the nature of the administrative action at issue. Thus, where an internal remedy would not be effective and/ or where its pursuit would be futile, a court may permit a litigant to approach the court directly. So too where an internal appellate tribunal has developed a rigid policy which renders exhaustion futile.

...this court interprets exceptional circumstances to mean circumstances that are out of the ordinary and that render it inappropriate for the court to require an applicant first to pursue the available internal remedies. The circumstances must in other words be such as to require the immediate intervention of the court rather than to resort to the applicable internal remedy."

37. Naturally, as discussed above it is necessary for a court to ensure a party satisfies the available dispute resolution mechanisms availed in a statute before entertaining the matter. In the same way, a court in considering such a question should look carefully at the suitability of the dispute mechanism in the context of each particular case to ascertain whether it falls in the exceptional category before making its determination.

38. It is well appreciated that the government imposes taxes in Kenya as a way of raising revenue. In line with this the *Tax Procedures Act* No 29 of 2015 in its preamble discloses that the purpose of the statute is to harmonise and consolidate the procedural rules for the administration of tax laws in Kenya, and for connected purposes.

39. The impugned notice as can be seen from the petitioner's annexures was issued under section 41 of the *Tax Procedure Act*. This section under 41(1) provides as follows:

Distress orders

The commissioner or an authorized officer may issue an order (referred to as "a distress order") in writing for the recovery of an unpaid tax by distress and sale of the movable property of a taxpayer.

40. Undoubtedly the impugned order was made under the *Tax Procedure Act*. Moving on, the Act under part viii which deals with tax decisions, objections and appeals provides the dispute mechanisms that ought to be invoked in case of a dispute in its application. Section 52 provides as follows:

(1) A person who is dissatisfied with an appealable decision may appeal the decision to the tribunal in accordance with the provisions of the *Tax Appeals Tribunal Act*, 2013 (No 40 of 2013).



- (2) A notice of appeal to the tribunal relating to an assessment shall be valid if the taxpayer has paid the tax not in dispute or entered into an arrangement with the commissioner to pay the tax not in dispute under the assessment at the time of lodging the notice.
41. Further, section 53 of the Act makes known that where a party is not satisfied with the tribunal's decision it may make an appeal to the High Court. It is imperative to state that before an appealable decision is heard by the tribunal a party is required under section 51(1) of the Act to lodge a complaint with the commissioner on a tax decision made under the Act. This section provides that:
- (1) A taxpayer who wishes to dispute a tax decision shall first lodge an objection against that tax decision under this section before proceeding under any other written law.
42. A tax decision is defined under section 3 of the Act as follows:
- (a) an assessment;
 - (b) a determination under section 17(2) of the amount of tax payable or that will become payable by a taxpayer;
 - (c) a determination of the amount that a tax representative, appointed person, director or controlling member is liable for under sections 15, 17, and 18;
 - (d) a decision on an application by a self-assessment taxpayer under section 31(2);
 - (e) a refund decision;
 - (f) a decision under section 48 requiring repayment of a refund; or
 - (g) a demand for a penalty
43. A look at the facts of this case makes it apparent that the 2nd respondent made a tax decision touching on the petitioner and Direct Specialist Company Limited. An examination of the material before this court shows that the petitioner did not lodge a complaint with the commissioner and neither was the jurisdiction of the tax appeals tribunal invoked prior to the filing of the instant suit.
44. Undeniably this runs afoul the doctrine of exhaustion that requires a party to exploit all available remedies before invoking this court's jurisdiction. It is my humble finding accordingly that the petition before this court invokes the doctrine of exhaustion in the circumstances of this case. This is since the *Tax Procedures Act*, 2015 provides for a clear dispute resolution mechanism to appropriately address the petitioner's dispute. In the same way, the petitioner has not demonstrated if its case warrants application of the exemptions to the doctrine for this court to intervene.

Issue No. (ii). Whether the petition raises a constitutional question.

45. The 2nd respondent on this issue argued that the matters raised in this petition do not require this court to interpret the *Constitution* nor constitutionality of the law. In view of this he urged the court to be guided by the caution given in the case of *Beeky Supplies Limited & another* (supra) on turning normal disputes into constitutional petitions. The petitioner maintained that the respondents actions though the impugned notice violated its rights under article 40 of the *Constitution*.
46. In answering the question whether a petition raises a constitutional issue, the key is to determine whether the petition forces the court to consider constitutional rights or values or a statute. In this



regard the court in the case of *Council of County Governors v Lake Basin Development Authority & 6 others* [2017] eKLR observed as follows:

“30. The question of what constitutes a constitutional question was ably illuminated in the South African case of *Fredericks & others v MEC for Education and Training, Eastern Cape & others*[35] in which Justice O’Regan recalling the Constitutional Court’s observations in *S v Boesak* [36] notes that:-

“The Constitution provides no definition of “constitutional matter.” What is a constitutional matter must be gleaned from a reading of the Constitution itself: If regard is had to the provisions of the Constitution, constitutional matters must include disputes as to whether any law or conduct is inconsistent with the Constitution, as well as issues concerning the status, powers and functions of an organ of state....., the interpretation, application and upholding of the Constitution are also constitutional matters. So too,....., is the question whether the interpretation of any legislation or the development of the common law promotes the spirit, purport and objects of the bill of rights. If regard is had to this and to the wide scope and application of the bill of rights, and to the other detailed provisions of the Constitution, such as the allocation of powers to various legislatures and structures of government, the jurisdiction vested in the constitutional court to determine constitutional matters and issues connected with decisions on constitutional matters is clearly an extensive jurisdiction.”[37]

31. Put simply, the following are examples of constituting constitutional issues; the constitutionality of provisions within an Act of parliament; the interpretation of legislation, and the application of legislation.[38] At the heart of the cases within each type or classification is an analysis of the same thing – the constitutionally entrenched fundamental rights, values, principles and purposes. Therefore the classifications are not discreet and there are inevitably overlaps, but the classifications are nonetheless useful theoretical tools to organise an analysis of the nature of constitutional matters arising from the cases before the court.”

47. In essence, my understanding of the above matter is that not all claims that cite constitutional provisions necessarily amount to constitutional claims. The matter at hand revolves around the 2nd respondent’s decision within its mandate under the *Tax Procedure Act*. If this court were to examine the issues raised, its determination would be focused on the respondent’s decision as spelt out in the Act rather than its interpretation or its compliance with constitutional values. In view of that it is my considered opinion that the issue as framed by the petitioner does not raise a constitutional issue or question. Instead it raises a tax issue which the Act provides sufficient mechanisms for redress. The question as framed in actual fact invokes the doctrine of constitutional avoidance.

48. The Supreme Court of Kenya in *Communications Commission of Kenya & 5 others v Royal Media Services Limited & 5 others* [2014] eKLR stated as follows:

“(256) The appellants in this case are seeking to invoke the “principle of avoidance”, also known as “constitutional avoidance”. The principle of avoidance entails that a court will not determine a constitutional issue, when a matter may properly be decided on another basis. In South Africa, in *S v Mhlungu*,



1995 (3) SA 867 (CC) the constitutional court Kentridge AJ, articulated the principle of avoidance in his minority judgment as follows [at paragraph 59]:

“I would lay it down as a general principle that where it is possible to decide any case, civil or criminal, without reaching a constitutional issue, that is the course which should be followed.”

(257) Similarly the US Supreme Court has held that it would not decide a constitutional question which was properly before it, if there was also some other basis upon which the case could have been disposed of (*Ashwander v Tennessee Valley Authority*, 297 US 288, 347 (1936)).”

49. What is clear from the above examination is that this doctrine necessitates that this court avoids making determinations on constitutional issues that have their foundations in an existing statutory law with adequate mechanisms to deal with the specific issue. Moreover it dictates that where a dispute is one which can be determined under another area of law other than the Constitution, then it is best it be so determined and pure constitutional issues left for determination as such. In my humble view, the petition does not raise a constitutional claim. The petitioner’s claim is well covered under the Tax Procedure Act, 2015.
50. Based on the above analysis I find that the petitioner has failed to discharge it’s burden of proof in support of its claim in the petition.
51. The upshot is that the petition dated July 16, 2019 lacks merit and is dismissed with costs.

Orders accordingly.

DELIVERED VIRTUALLY, DATED AND SIGNED THIS 30TH DAY OF SEPTEMBER, 2022 IN OPEN COURT AT MILIMANI NAIROBI.

H. I. ONG’UDI

JUDGE OF THE HIGH COURT

