

**IN THE COURT OF APPEAL  
AT NAIROBI  
(CORAM: KIAGE, ACHODE & KORIR, JJ.A)  
CIVIL APPEAL NO. 536 OF 2019**

**BETWEEN**

**ERIC GITARI.....APPELLANT  
AND  
THE HON. ATTORNEY GENERAL.....1<sup>ST</sup> RESPONDENT  
JOHN MATHENGE.....2<sup>ND</sup> RESPONDENT  
MAUREEN ACHIENG.....3<sup>RD</sup> RESPONDENT  
MARY AKOTH OCHIENG.....4<sup>TH</sup> RESPONDENT  
YVONE POWERS.....5<sup>TH</sup> RESPONDENT  
MARK AKOTH OCHIENG.....6<sup>TH</sup> RESPONDENT  
GAY AND LESBIAN COALITION OF KENYA.....7<sup>TH</sup> RESPONDENT  
NYANZA WESTERN & RIFT  
VALLEY NETWORK.....8<sup>TH</sup> RESPONDENT  
KENYA HUMAN RIGHTS COMMISSION.....9<sup>TH</sup> RESPONDENT  
DAVID KURIA MBOTE.....10<sup>TH</sup> RESPONDENT  
ANTHONY OLUOCH.....11<sup>TH</sup> RESPONDENT  
IMMAH REID.....12<sup>TH</sup> RESPONDENT  
GEORGE NJERI.....13<sup>TH</sup> RESPONDENT  
Y. HUSSEIN.....14<sup>TH</sup> RESPONDENT  
JAY TIROP.....15<sup>TH</sup> RESPONDENT  
KENYA CHRISTIANS  
PROFESSIONAL FORUM.....16<sup>TH</sup> RESPONDENT  
KELIN.....17<sup>TH</sup> RESPONDENT  
SENATOR IRUNGU KANG'ATA.....18<sup>TH</sup> RESPONDENT  
REGISTERED TRUSTEES UMMAH  
FOUNDATION.....19<sup>TH</sup> RESPONDENT  
KATIBA INSTITUTE.....20<sup>TH</sup> RESPONDENT  
HUMAN RIGHTS.....21<sup>ST</sup> RESPONDENT**

*(Being an appeal from the judgment and decree of the High Court at  
Nairobi (Hon. Lady Justice R. Aburili, Hon. Justice J. Mativo) dated  
and delivered on the 24<sup>th</sup> May 2019*

*in  
Constitutional and Human Rights Division  
Petition No. 150 of 2016*

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**ORDER OF THE COURT**

It is part and clear that the issues raised in this appeal, are interesting. They are significant. They require a deep engagement with constitutional arguments and the many, many authorities that the parties relied on in the court below, and that they shall be relying on herein.

The numerosity of the parties, speaks to the need for sufficient time to be given for the hearing of this appeal in the result, the court directs that the hearing of this appeal today shall be adjourned. The appeal is such as requires to be heard, to be listed for hearing on its own, without any other matters being listed for hearing on the day.

Further, the appeal needs to be heard by a bench of 5 judges of the Court of Appeal. We therefore direct that this appeal shall be listed in the next term of court before a bench of 5 judges of appeal to be impanelled by the President of the Court and on that day, no other appeal shall be listed for hearing. Order accordingly.

**Made at Nairobi this 10<sup>th</sup> day of November 2025**

**P. KIAGE**

.....  
**JUDGE OF APPEAL**

**L. ACHODE**

.....  
**JUDGE OF APPEAL**

**W. KORIR**

.....  
**JUDGE OF APPEAL**

*I certify that this is a  
True copy of the original.*

**REGISTRAR**

