

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KAKAMEGA

CONSTITUTIONAL PETITION NO. 7 OF 2020

(Formerly Nairobi HC Constitutional Petition No. 166 of 2020)

REV. HUMPHREY GOREN AND 19 OTHERS.....PETITIONERS

VERSUS

REV. NATHAN ONDEGO AND 8 OTHERS.....RESPONDENTS

AND

CABINET SECRETARY,

MINISTRY OF INTERIOR AND 4 OTHERS.....INTERESTED PARTIES

RULING

1. The instant cause was initially filed at the High Court at Nairobi, before an order was made at Nairobi for its transfer to the High Court at Kakamega. It was placed before me on 6th June 2020, when I gave directions on service of a Motion on record, dated 2nd June 2020, and fixed the same for mention on 16th June 2020 for directions.
2. When the same was placed before me on 16th June 2020, Mr. Musiega for Dr. Khaminwa for the petitioners, informed me that he had instructions to have the file transferred back to Nairobi since Dr. Khaminwa desired to argue the stay application dated 2nd June 2020 before the Nairobi court, and that the issues raised in that application could not justly be dealt with by the court at Kakamega.
3. Mr. Wasilwa opposed the application. He stated that the matter had been transferred in proper exercise of the discretion given in Rule 8 of the Constitution of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules 2013. He submitted that the High Court remains the High Court wherever stationed. Mr. Mokuia agreed with him that the High Court remains the High Court wherever it sits.
4. I have had time to peruse the record before me, in terms of the pleadings, applications and other filings, and the notes and rulings of the Judge.
5. The issue of transfer of the matter from Nairobi to Kakamega was canvassed before the Judge, and he delivered a considered opinion. It is within the rights of any party aggrieved to appeal against the transfer order. However, I am not persuaded that I should transfer the matter back to Nairobi for the disposal of the application dated 2nd June 2020. I agree that the High Court remains the High Court wherever it sits. The High Court sitting at Kakamega has the competence to hear and determine that application.
6. As found by the Judge in Nairobi, the dispute herein is related to the dispute in Kakamega HC Constitutional Petition No. 6 of 2018, and, therefore, the two shall be disposed of simultaneously.
7. It is so ordered.

RULING IS DELIVERED DATED AND SIGNED IN OPEN COURT AT KAKAMEGA THIS 26th DAY OF June 2020

W MUSYOKA

JUDGE