



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

CONSTITUTIONAL AND HUMAN RIGHTS DIVISION

CONSOLIDATED PETITIONS NO. 56, 58 & 59 OF 2019

BETWEEN

NUBIAN RIGHTS FORUM.....1ST PETITIONER

KENYA HUMAN RIGHTS COMMISSION.....2ND PETITIONER

KENYA NATIONAL COMMISSION ON HUMAN RIGHTS.....3RD PETITIONER

AND

THE HON. ATTORNEY-GENERAL.....1ST RESPONDENT

THE CABINET SECRETARY, MINISTRY OF

INTERIOR & CO-ORDINATION OF NATIONAL GOVERNMENT.....2ND RESPONDENT

THE PRINCIPAL SECRETARY, MINISTRY OF

INTERIOR & CO-ORDINATION OF NATIONAL GOVERNMENT.....3RD RESPONDENT

THE DIRECTOR NATIONAL REGISTRATION.....4TH RESPONDENT

THE CABINET SECRETARY, MINISTRY OF INFORMATION,

COMMUNICATION & TECHNOLOGY.....5TH RESPONDENT

THE SPEAKER, NATIONAL ASSEMBLY.....6TH RESPONDENT

KENYA LAW REFORM COMMISSION.....7TH RESPONDENT

AND

CHILD WELFARE SOCIETY.....1ST INTERESTED PARTY

AJIBIKA SOCIETY.....2ND INTERESTED PARTY

MUSLIMS FOR HUMAN RIGHTS INITIATIVE.....	3 RD INTERESTED PARTY
HAKI CENTRE.....	4 TH INTERESTED PARTY
LAW SOCIETY OF KENYA.....	5 TH INTERESTED PARTY
INFORM ACTION.....	6 TH INTERESTED PARTY
BUNGE LA WANAINCHI.....	7 TH INTERESTED PARTY
INTERNATIONAL POLICY GROUP.....	8 TH INTERESTED PARTY
TERROR VICTIMS SUPPORT INITIATIVE.....	9 TH INTERESTED PARTY

RULING NO. 4

This suit was set for hearing from 23rd September 2019 to 27th September 2019. On 23rd September 2019 before the commencement of the hearing, Mr. Njoroge Regeru, the learned counsel for the 2nd and 3rd Respondents, informed the Court that the Respondents had experienced difficulty in securing the attendance of three of their witnesses who were to be cross-examined, namely Mr. Loyford Muriithi, Eng. Dr. Karanja Kibicho and Mr. Jerome Ochieng. His explanation was that the said witnesses were engaged in official business out of Nairobi and the country during the dates the hearing. He requested for a hearing date after 1st October 2019, for his witnesses to be availed for cross-examination as directed by the Court and requested by the Petitioners.

The Petitioners, led by Hon. Martha Karua SC, opposed the application, and contended that the same was a deliberate delaying tactic by the Respondents, who were taking the court for granted. They urged the court not to adjourn the hearings to a further date, given that one of their expert witnesses had travelled all the way from India, and this matter still remains urgent.

This Court has considered the application by Mr. Regeru, and the arguments made by the parties. Under Article 159 of the Constitution, this court is guided by various principles, including that justice shall be done to all, irrespective of status; justice shall not be delayed; justice shall be administered without undue regard to procedural technicalities; and that the purpose and principles of the Constitution shall be protected and promoted.

In addition, Rule 30 of the Constitution of Kenya (Protection of Rights and Fundamental Freedoms) Practice & Procedure Rules of 2013 gives discretion to this court to extend time.

It is notable that this Court gave detailed directions as to the hearing of the consolidated Petitions herein, and although this Bench did not specify the dates and times witnesses were to be present, it was envisaged that they would be availed when required during the dates set for hearing. However, as this court did not issue any witness summons to the said witnesses, and given the imperative of substantive justice that requires this court to hear all parties in a case before making a decision, we have decided to exercise our discretion in the Respondents' favour. This concession notwithstanding, we are also constrained to point out that given the nature and urgency of the matters presented in the consolidated Petitions herein, this will be the last opportunity given to the Respondents to avail the said witnesses.

In the premises, the Respondents' oral application is allowed only to the extent of setting additional hearing dates on **2nd and 3rd October 2019** from **10.00 am** to receive the said witnesses' evidence, and for the said witnesses' cross-examination and re-examination. In the event of non-compliance by the Respondents, this Court will be at liberty to make adverse inferences as regards the said witnesses' evidence.

Orders accordingly.

DATED AND SIGNED AT NAIROBI THIS 25TH DAY OF SEPTEMBER 2019

P. NYAMWEYA

MUMBI NGUGI

W. KORIR

JUDGE

JUDGE

JUDGE