



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIVASHA

NAROK ELECTION PETITION NO. 3 OF 2017

IN THE MATTER OF A PETITION CONTESTING THE VALIDITY OF THE ELECTIONS

FOR THE SEAT OF SENATOR OF NAROK COUNTY HELD ON 8TH AUGUST 2017

IN THE MATTER OF ARTICLES 1, 2, 3, 10, 20, 23, 47, 81, 82, 83, 86, 87, 98,

165 (3) (b), (d), (e), 258, 259 OF THE CONSTITUTION OF KENYA

IN THE MATTER OF SECTION 75 AND 76 OF THE ELECTIONS ACT 2011

IN THE MATTER OF AN ELECTION PETITION BY

NKOIDILA OLE LANKAS AND ALBERT KIPLANGAT

NKOIDILA OLE LANKAS.....1ST PETITIONER

ALBERT KIPLANGAT.....2ND PETITIONER

-VERSUS-

INDEPENDENT ELECTORAL AND

BOUNDARIES COMMISSION.....1ST RESPONDENT

NDUKU KIMEU ANNAHSTACIA.....2ND RESPONDENT

LEDAMA OLE KINA.....3RD RESPONDENT

R U L I N G

1. On 14th December 2017, this court received the parties’ oral submissions. At the close of the submissions, the court directed that a date for the delivery of its judgment would be communicated to the parties by 31st January, 2018.
2. This court has now had opportunity to consider, albeit in a preliminary manner, the evidence adduced by the parties, including documentary evidence, as well as the submissions. Consequently, the court is of the view that in order that justice may be done in this case, it is imperative for a limited scrutiny exercise to be carried out.
3. Thus, for reasons that will be given in detail at the time of judgment, the court invokes the discretionary power under Section 82 (1) of the Elections Act and Rule 29 of the Elections (Parliamentary and County Elections) Petitions Rules to order *suomotu* that a scrutiny, limited to the examination of results be carried out as follows:-
 - a) General examination of the printed copy of the Register of voters, all original Forms 38A, 38B and 38C, as well as Candidate Vote Tally Sheets which were used in the 130 polling stations identified at paragraph 39 of the Petition namely:-

ITEM	POLLING STATION
1.	Lengina Primary School
2.	Lengina Primary School
3.	EngareNgiro Primary School
4.	EngareNgiro Primary School
5.	Olenkuluo Primary School
6.	Erupata Primary School
7.	OldonyoOrasha Primary School
8.	EnkareNairowua Primary School
9.	EnkareNairowua Primary School
10.	Enkiu Primary School
11.	Ingoswani Primary School
12.	Esupetai Primary School
13.	Morloo Ole Kasale Primary School
14.	Olgilai-Osupuko Primary School

ITEM	POLLING STATION
15.	KosekaNur School
16.	Kanunka Primary School
17.	Kanunka Primary School
18.	OsupukoOirobi Primary School
19.	NkoisusuNur School
20.	Nkimpa Primary School
21.	Olosirua Primary School
22.	Olepolos Primary School
23.	Isinon Primary School
24.	ElangataEnterit Primary School
25.	ElangataEnterit Primary School
26.	Ntuka Primary School

27.	Kideket Primary School
28.	Oloisuisho-Osupuko Primary School
29.	Kuntai Primary School
30.	Kuntai Primary School
31.	Kuntai Primary School
32.	Entiapirri Primary School
33.	Naserian Primary School
34.	Olepariata Primary School
35.	Enkutoto Primary School
36.	Enkutoto Primary School
37.	Iladoru Primary School
38.	Iladoru Primary School
39.	Ilchorroi Primary School
40.	Olemegili Primary School
41.	Iletukunyi Primary School
42.	Inchaishi Primary School
43.	MoyongoNur School
44.	Olosiyoi Primary School
45.	Kotolian Primary School

ITEM	POLLING STATION
46.	Eroret Primary School
47.	Olmusakwa Primary School
48.	Olmusakwa Primary School
49.	Oloisuisho Primary School
50.	Oloisuisho Primary School
51.	Oloisuisho Primary School

52.	Oloisuisho Primary School
53.	Osotua Primary School
54.	Osotua Primary School
55.	Nkoben Primary School
56.	Masaantare Primary School
57.	Masaantare Primary School
58.	Oloirien Primary School
59.	EorEwuaso Primary School
60.	Ololoipangi Primary School
61.	Ololoipangi Primary School
62.	Ololoipangi Primary School
63.	Iltriben Primary School
64.	Olonini Primary School
65.	Olgilai-Ololulunga Primary School
66.	Oloshapani Primary School
67.	OlmekenyuNur School
68.	OlmekenyuNur School
69.	OlmekenyuNur School
70.	OlmekenyuNur School
71.	OlmekenyuNur School
72.	Enoosokon Primary School
73.	Enoosokon Primary School
74.	Enoosokon Primary School
75.	Ilubi Primary School
76.	Ilubi Primary School

ITEM	POLLING STATION
77.	Olengajinabo Primary School

78.	Olpukoti Primary School
79.	Melelo Primary School
80.	EnosagamiWuas Primary School
81.	Ole Nkanai Primary School
82.	Isinantet Primary School
83.	Ololua Primary School
84.	Olengapune Primary School
85.	Olengapune Primary School
86.	Olmukonge Primary School
87.	Oltarakwai Primary School
88.	Ilkujuka Primary School
89.	Emorogi Primary School
90.	Olpusare Primary School
91.	Olmesutie Primary School
92.	Emupurputia Primary School
93.	Entasekera Primary School
94.	Entasekera Primary School
95.	Osinantei Primary School
96.	MorijoLoita Primary School
97.	MorijoLoita Primary School
98.	Olorte Primary School
99.	NairebukNur School
100.	Kone Primary School
101.	Enkaroni Primary School
102.	Enkaroni Primary School
103.	Naisudori Primary School
104.	Naisudori Primary School
105.	Sogoo Primary School

106.	Sogoo Primary School
107.	Sogoo Primary School

ITEM	POLLING STATION
108.	Kichapa Primary School
109.	Kapkatet Primary School
110.	Siwot Primary School
111.	Siwot Primary School
112.	Marinua Primary School
113.	Marinua Primary School
114.	Tumuyot Primary School
115.	Tumuyot Primary School
116.	Minet Primary School
117.	Kewet Primary School
118.	Kewet Primary School
119.	Bondet Primary School
120.	Sitowet Primary School
121.	Tendwet Primary School
122.	Tendwet Primary School
123.	Choronook Primary School
124.	Kebenet Primary School
125.	Kebenet Primary School
126.	Kebenet Primary School
127.	Kalyet Primary School
128.	Saire Primary School
129.	Sagamian Primary School
130.	Sagamian Primary School

b) Examination and comparison of the entries in the printed copy of the Register of Voters, the Candidate Vote Tally Sheets, the original Forms 38A and B alongside corresponding entries in the original Form 38C, stated above to confirm:-

i) the general accuracy of the entries;

ii) the number of registered voters in the polling stations in question;

iii) specifically, the accuracy in the tallying and transposition of votes as captured in the entries in the stated documents.

iv) where necessary reference may be made to relevant notices in the Kenya Gazette.

c) Special note is to be made of incidents, if any, where the total number of votes cast or valid votes exceed the total number of registered voters; and of any similarities in entries that may be noted in the Form 38C annexed to the Petition and the Original Form 38C supplied by the Independent Electoral & Boundaries Commission (I.E.B.C.).

d) The exercise will be conducted at Naivasha Law Courts under the supervision of the Deputy Registrar of this court between the 5th and 9th of February, 2018 and a report filed and served on all parties by 12th February, 2018.

e) For purposes of the scrutiny exercise, each party will be at liberty to nominate one agent to act as its representative during the exercise.

f) For the avoidance of doubt, the scrutiny exercise is limited to the stated documentation, and does not include the scrutiny or recounting of physical ballots (votes).

4. Parties will be accorded opportunity to make comments or submissions on the contents of the report on 14th February 2018.

Delivered and Signed at Naivasha this 30th day of January, 2018.

In the presence of:

Miss Kithinji holding brief for Mr. Marete for the Petitioners

Mr. Mwangi for the 1st & 2nd Respondents

Mr. Odhiamboor the 3rd Respondent

Court Clerk –Quinter

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C. MEOLI

JUDGE