



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**JUDICIAL REVIEW APPLICATION NO. 469 OF 2017**

**IN THE MATTER OF JUDICIAL REVIEW PROCEEDINGS**

**ORDERS OF CERTIORARI, PROHIBITION AND**

**MANDAMUS AGAINST THE REGISTRAR OF SOCIETIES, THE REGISTRAR OF  
MARRIAGES AND THE ATTORNEY GENERAL**

**AND**

**IN THE MATTER OF ARTICLES 27, 32 AND 37 OF THE CONSTITUTION OF THE  
REPUBLIC OF KENYA**

**AND**

**IN THE MATTER OF THE SOCIETIES ACT (CHAPTER 108, LAWS OF KENYA)**

**AND**

**IN THE MATTER OF THE MARRIAGE ACT 2014**

**AND**

**IN THE MATTER OF THE FAIR ADMINISTRATIVE ACTION ACT, NO. 4 OF 2015**

**REPUBLIC ..... APPLICANT**

**VERSUS**

**THE REGISTRAR OF SOCIETIES.....1<sup>ST</sup> RESPONDENT**

**THE REGISTRAR OF MARRIAGES.....2<sup>ND</sup> RESPONDENT**

**THE ATTORNEY GENERAL.....3<sup>RD</sup> RESPONDENT**

**AND**

**JAMES NJAMA WACHIRA**

**JOHN NJOROGE GITUNDU .....INTERESTED PARTIES**

**FREDRICK KINYANJUI KIGAA(BEING MEMBERS OF THE  
ORIGINAL APOSTOLIC FAITH CHURCH)**

**EX PARTE**

- 1. NDUNGU NG'ANGA ALIAS JOSEPH NDUNGU NGANGA**
- 2. SOLOMON NJUGUNA KAMANU**
- 3. BEN THIONG'O NG'ANG'A**
- 4. MUIRURI KINUTHIA (Being also members of the Original  
Apostolic Faith Church)**

**JUDGEMENT**

**Introduction**

1. By a Notice of Motion dated 31<sup>st</sup> day of July, 2017 the *ex parte* applicants herein seek the following orders:

- a. That this honourable court issues orders of certiorari removing into this honourable court for purposes of being quashed and quashing the orders of the Registrar of Societies contained in a letter dated 18/7/2017 requiring the applicants and other members of the original apostolic Faith to hold a special general meeting with the sole aim of electing the General Pastor, the General Secretary and the Treasurer of the original Apostolic Faith.**
- b. That should any persons hold the meeting ordered by the registrar of Societies in the letter dated 18<sup>th</sup> July 2017 and purport to elect general pastor, general secretary and treasurer of the original Apostolic Faith, the said election be quashed and/or nullified by this honourable court.**
- c. That this honourable court issue orders of mandamus against the 1<sup>st</sup> respondent directing her to facilitate the registration of the 2 factions of the original Apostolic Faith with either one retaining the old registration or both being registered freshly as two separate societies.**
- d. That this honourable court issue orders of mandamus against the 2<sup>nd</sup> respondent directing her to facilitate the licensing of the ex parte or such other members of their faction as they might recommend to be able conduct marriages.**
- e. That the honourable court do grant such further and/or other relief that it may deem just and fit to grant.**
- f. That costs of this application be provided for.**

**Ex Parte Applicants' Case**

2. According to the Applicants, they are members of the Original Apostolic Faith Church (hereinafter referred to as "the Church") which was registered under the *Societies Act* Chapter 108 of the Laws of Kenya on 8<sup>th</sup> May 2008.

3. According to the applicants, the Church has about 1,000 members and has branches at Katangi, Makomboki, Kinamba, Gita, Bushi, Ragia, Kiru, Malewas Uganda, Molo, Murau, Iguamiti, Mbombo,

Gitugi (Nyeri), Mweiga (Nyeri), Nyahururu, Kinungi, Subukia, Muhotetu, Nandi Hills, Sabasaba, Kinale, Nyakio, Karati,, Kayole (Naivasha), Thogoto, Mombasa, Eldoret, Githogoro (Kiambu), Sultan Hamud, Githurai, Kamune (Murang'a), Mai Mahiu, Loitoktok, Kamburu, Lari, Ndoroto, Karagita (Naivasha), Ndabibi among others.

4. It was averred that the leadership of the Church according to its constitution are General Pastor, General Secretary and Treasurer and that the General Pastor since the inception of the Church was one **Willy Nganga Kago** who died on 24<sup>th</sup> July 2009, after which he was replaced by **John Kimani Chege** who in turn died on 11<sup>th</sup> June 2017.

5. However, after the death of the founding general pastor **Willy Nganga Kago**, the church started having doctrinal differences and as matters stand there are now two main factions within the church with one faction being led by the deceased pastor general **John Kimani Chege** before his death while the other is led by the 1<sup>st</sup> Interested party, **James Njama Wachiria**, who is the current registered secretary general of the church and the other interested parties named above.

6. The applicants averred that they had informed the 1<sup>st</sup> respondent the Registrar of Societies of the present conflict in the church with the 2 groupings separated along very serious irreconcilable doctrinal differences thus making it impossible to hold joint church services for the 2 factions and to elect officials jointly. However, despite that knowledge of the conflict being in the possession of the 1<sup>st</sup> respondent, by a letter dated 18<sup>th</sup> July 2017 the 1<sup>st</sup> respondent ordered the church to convene a special general meeting on 2<sup>nd</sup> August 2017 with the sole agenda of holding elections for the offices of General Pastor, General Secretary and Treasurer in alleged headquarters of the church yet that is the headquarters of the other faction lead by the interested parties and not the headquarters of the Original Apostolic Faith Church.

7. According to the applicants, the 2 factions have met at the offices of the 1<sup>st</sup> respondent on 11<sup>th</sup> July 2017 and 17<sup>th</sup> July 2017 and it is very clear to the 1<sup>st</sup> respondent that the 2 sides have irreconcilable differences, and an attempt by the faction of the applicants to enter the venue directed by the 1<sup>st</sup> respondent in her letter would most certainly be met with hostility and possible violence by the faction of the interested parties. To the applicants, such a meeting as is being ordered by the 1<sup>st</sup> respondent would most probably end up in chaos and violence and would be incapable of conducting true elections.

8. It was the applicants' case that in their interactions with the 1<sup>st</sup> respondent, they have found her and her office favouring the faction led by the interested parties and it was their view that in the light of the current situation in the church, the only solution is for the 1<sup>st</sup> respondent to facilitate the registration of the 2 factions of the Original Apostolic Faith with either one retaining the old registration or both being registered freshly as two separate societies, hence the orders sought herein.

9. The applicants disclosed that their group does not have any minister licensed to conduct marriages as the only one in that group was **John Chege** who died on 11<sup>th</sup> June 2017. As such young people in that group cannot have church weddings during the current crisis. As a result a wedding which ought to have been held within 21 days from payment of dowry on 3<sup>rd</sup> June 2017 had to be postponed. As a result, the youth in the Church are getting distressed and have their prospective family lives disrupted as they cannot have weddings in the faith of their choice.

10. It was averred that despite applying to the 2<sup>nd</sup> respondent, the registrar of marriages, to grant a license to their member by the name **John Kamu Magu**, the same was denied by the 2<sup>nd</sup> respondent.

11. On the other hand, the other faction has **John Njoroge Gitundu**, the 2<sup>nd</sup> interested party, who was given a license outside the ambit of the church on 28<sup>th</sup> October 2014 and hence he is able to conduct weddings among his faction.

12. The applicants therefore sought that the Court orders the 2<sup>nd</sup> respondent to grant a pastor or pastors of

their choice to licence(s) to perform marriages for their members.

13. In their view, the interests of justice would be better served by the orders of the 1<sup>st</sup> respondent as contained in her letter dated 18<sup>th</sup> July 2017 being quashed.

### **Respondents' Case**

14. The application was however opposed by the Respondents.

15. According to them, the Original Apostolic Faith Church was registered on 9<sup>th</sup> May, 2008 and issued with a Certificate of Registration no. 28884 vide file number SOC/51861.

16. In the Respondents' view, the issues as to who are the *bona fide* officials of Original Apostolic Faith Church are internal matters to be governed by the Society's constitutive Constitution, and that the 1<sup>st</sup> Respondent does not interfere with the internal wrangles of a society since its mandate as the regulator is to ensure that the society complies with the provisions of the **Societies Act**, Cap (108) and its constitutive constitutional requirements which govern its operations. According to them, the 1<sup>st</sup> Respondent's mandate with regard to elections of officials of a registered society is to receive the Notification of Change of Officials (FORM H) together with the accompanying documents that is; the Notice by the Secretary convening the Annual General Meeting, Minutes of the Annual General Meeting duly signed by three officials and a list of members who attended the Annual General Meeting. The 1<sup>st</sup> Respondent then inspects the documents to confirm that the society has complied with its constitutive constitution and the **Societies Act**, Cap 108 before confirming the new officials.

17. It was reiterated that the 1<sup>st</sup> Respondent at all times does not interfere with the internal working of an association unless requested to intervene by an aggrieved member of an association.

18. In this case it was averred that on 15<sup>th</sup> May, 2017, the 1<sup>st</sup> Respondent received a complaint letter from **Pastor. James Njama Wachira** the General secretary of the Church, complaining of the running of church affairs by the pastor general, **John Kamangu Chege**, who was the chairman then (deceased) and the complainant requested the Office of the Registrar to intervene in a bid to streamline affairs in the church. On 13<sup>th</sup> June 2017, the 1<sup>st</sup> Respondent received a complaint letter from one **Joseph Ndung'u Ng'ang'a** the Treasurer of the association, among other things stating that some officials led by the General Secretary of the association had formed a splinter group under the name of the Original Apostolic Faith. On 15<sup>th</sup> June, 2017, the 2<sup>nd</sup> Respondent received another complaint letter from one **Joseph Ndung'u Ng'ang'a** Treasurer of the association, stating that the General Secretary of the association forged a letter applying for a marriage book as the logo in the letter was not that of the association, yet they had not been authorized by the committee to use the letter head as required by the Church's Constitution. The complainant requested the Office of the 2<sup>nd</sup> Respondent to intervene and recall the marriage book issued to the Assistant bishop **John Gitundu**.

19. It was the Respondents' case that in an effort to resolve the association's leadership disputes and in response to the said letters of **James Njama Wachira** and **Joseph Ndung'u Ng'ang'a**, the 1<sup>st</sup> Respondent wrote a letter to the Church calling for an inclusive meeting of the representatives from each faction at the 1<sup>st</sup> Respondent's office scheduled for 11<sup>th</sup> July, 2017 at 10 am at which upon listening to the issues raised by the parties, the 1<sup>st</sup> Respondent advised them to maintain peace. However, the party led by the Treasurer **Joseph Ndung'u Ng'ang'a** felt that they had not been granted proper audience by the 1<sup>st</sup> Respondent and they therefore decided to appeal to the Ag. Registrar General who convened a meeting on 17<sup>th</sup> July, 2017 where the parties were present. During the meeting the Interested Parties complained that the last Annual General Meeting was not properly held as per the association's constitution since it was held in former chairman's, **John Kamangu Chege** (deceased), homestead in their exclusion. As a result of the above complaint, the Ag. Registrar General directed the association to convene a Special General Meeting (SGM) within 14 days for purposes of new office bearers and the meeting was to be supervised

by the 1<sup>st</sup> Respondent.

20. The Ag. Registrar General instructed the General Secretary to issue a notice of the Special General Meeting. However, the General Secretary requested that the 1<sup>st</sup> Respondent issues the notice and that the Special General Meeting be held at Kinungi and the parties did not object. Accordingly, the 1<sup>st</sup> Respondent issued a Special General Meeting to the church members to be held on 2<sup>nd</sup> August, 2017 at Kinungi Church Headquarters with the sole agenda of holding elections of the office bearers.

21. However, on 31<sup>st</sup> July, 2017 the 1<sup>st</sup> Respondent received a Notice of Motion dated 31<sup>st</sup> July, 2017, and a Verifying Affidavit sworn on 27<sup>th</sup> July, 2017 filed by the Ex parte Applicants and pursuant thereto, the 1<sup>st</sup> Respondent issued a letter to the General Secretary of the Church cancelling the Special General Meeting scheduled for 2<sup>nd</sup> August, 2017 citing lack of cooperation from the *ex parte* Applicants as they had filed a suit in court.

22. The Respondent reiterated that the Registrar of Societies does not interfere in the internal affairs of societies and only acted in the best interests of the society herein but despite its efforts, the *ex parte* applicants went ahead and filed this suit in bad faith seeking to advance their unilateral interests before the interests of the society by asking the court to order the 1<sup>st</sup> respondent to facilitate the dissolution of the society yet the Association's Constitution clearly states the procedure to follow.

23. In the Respondents' view, the *ex parte* Applicants herein will suffer no loss if the court dismisses the suit as they can still submit their resignation letters from the society to the General Secretary as outlined in the Church's Constitution clause 3(c).

24. It was the Respondents' case that the executive committee of the Church is mandated with approving pastors for ordination who are licensed to conduct marriages to all members of the association as outlined in clause 5 of the association's constitution hence the *ex parte* Applicant's prayer to this Court to order the 2<sup>nd</sup> Respondent to license them to conduct marriages is ill advised. The *ex parte* Applicants and the interested parties are all ordained and can conduct marriages and serve all members of the association and therefore no youth of the association ought to have been distressed or prospective family life of marriage disrupted as alleged by the *ex parte* Applicants.

25. The Respondents therefore contended that the *ex parte* Applicants' application herein lacks merit and they prayed that it should be dismissed with costs to the Respondents.

### **Interested Parties' Case**

26. The application was similarly opposed by the interested parties.

27. According to them, they are members of the Original Apostolic Faith. However, due to some differences they have been unable to hold their Annual General Meeting that would most likely resolve the differences once officials are properly elected in accordance with the church constitution.

28. They averred that on 2<sup>nd</sup> June 2017, the Deputy County Commissioner (**Mr. Isaac Masinde**) Naivasha Sub County summoned both factions of the church in his office to sort out their differences but one **Solomon Njuguna Kamau** took an extremist position that they would not hold any joint meeting, though there were no ugly scenes or exchange of harsh words. The Deputy County Commissioner then gave them 21 days to resolve their problems failure to which they would be referred to the registrar of societies.

29. According to the interested parties, between 1<sup>st</sup> and 21<sup>st</sup> December 2016 their late chairman had called for the annual convention of the church at Karati Naivasha where both factions were present and no violence broke out. Similarly, on 10<sup>th</sup> September 2017 both factions met at Thogoto for annual prayer meeting and no violence or breach of Law occurred. To them therefore, the above incidents clearly

demonstrates that if all parties are honest enough they can have an annual general meeting supervised by the Registrar of Societies and with provision of security by the Deputy County Commissioner just in case of any untold eventuality.

30. It was averred that due to our inability to resolve their differences they were referred to the Registrar of societies who in her professional capacity concluded that the only way out is for an annual general meeting to be held at Kinungi being centrally placed for members from different parts of the country but the ex parte applicants rushed to court to forestall the meeting. In their view, it is the ex parte applicants and not the general membership that are against an annual general meeting for fear of being defeated in the elections or other personal and selfish reasons.

31. It was disclosed that the late chairman held at Kangaroo AG Mathis home at Kayole Naivasha on 29<sup>th</sup> December 2016 in which the secretary and treasurer were illegally replaced. However, all their AGMs are held at Karati from 1<sup>st</sup> to 21<sup>st</sup> December every year. However, the registrar of societies did not accept the returns thereof as the meeting was illegally convened.

32. It was averred that the pastor mentioned as licensed to officiate in marriage is a pastor of the Original Apostolic Faith and is always ready to officiate in marriages of all members of the church without discrimination but the ex parte applicants want to create an impression that the pastor is biased towards one faction. To them, the correct position is that the church had three Ministers licensed to officiate marriages namely **Rev. James Njama Wachira**, **Rev. Moses Mukundi Mwangi** and the late **John Kimani Chege** all who were empowered to serve the church congregation. They therefore asserted that the Registrar of Societies was carrying out her lawful mandate when she called for AGM as that is the only way forward to resolve the issues at hand.

33. The interested parties were of the view that the prayer by the ex parte applicants that the church be split into two is ill advised and against the church constitution as the action would amount to illegally dissolving the church without following the provisions of Article 13 of the church constitution, yet the majority of their congregation want the Original Apostolic Faith to remain united as it is possible to resolve the issues at hand through an AGM. The interested parties therefore supported the actions of the Registrar of Societies to call for an AGM to resolve the current problems and confirm that the order for the AGM is lawful, procedural, fair and just and does not breach any law and ought not be disturbed. In their view, ordering the Registrar of Societies to register the two factions would be illegal and against the church constitution as the act would amount to dissolving the Original Apostolic Faith through the back door whereas the church's constitution provides for procedures to be followed.

34. Similarly, ordering the 2<sup>nd</sup> respondent to licence the ex partes to conduct marriages as members of a splinter faction would be tantamount to allowing the ex partes to split the church whereas the pastors licensed should serve all the membership of the church. To them, only ordained pastors are allowed to conduct marriages and out of the ex partes only the 1<sup>st</sup> ex parte is ordained whereas the interested parties are all ordained pastors. They asserted that it is the properly constituted church executive members who can recommend the licensing of pastors to conduct the marriages.

35. The interested parties therefore urged the court to dismiss the application with costs herein for lack of merit and allow the AGM to proceed as ordered by the 1<sup>st</sup> respondent.

### **Determination**

36. I have taken into account the foregoing as well as the submissions filled herein.

37. The first issue I wish to deal with is whether the orders of *mandamus* sought herein can be granted in the circumstances of this case and in the manner sought herein. As stated at the beginning of this judgement the twin orders of *mandamus* that the applicants seek are an order compelling the 1<sup>st</sup> respondent directing her to facilitate the registration of the 2 factions of the original Apostolic Faith with either one retaining the old registration or both being registered freshly as two separate societies and an

order directing the 2<sup>nd</sup> Respondent to facilitate the licensing of the ex parte applicants or such other members of their faction as they might recommend to be able conduct marriages.

38. What then are the circumstances under which the Court issues orders in the nature of *mandamus*? The Court of Appeal in **Kenya National Examinations Council vs. Republic Ex parte Geoffrey Gathenji Njoroge & Others Civil Appeal No. 266 of 1996 (CAK) [1997] eKLR** expressed itself *inter alia* as follows:

**“The order of mandamus is of a most extensive remedial nature, and is, in form, a command issuing from the High Court of Justice, directed to any person, corporation or inferior tribunal, requiring him or them to do some particular thing therein specified which appertains to his or their office and is in the nature of a public duty. Its purpose is to remedy the defects of justice and accordingly it will issue, to the end that justice may be done, in all cases where there is a specific legal right or no specific legal remedy for enforcing that right; and it may issue in cases where, although there is an alternative legal remedy, yet that mode of redress is less convenient, beneficial and effectual. The order must command no more than the party against whom the application is legally bound to perform. Where a general duty is imposed, a mandamus cannot require it to be done at once. Where a statute, which imposes a duty, leaves discretion as to the mode of performing the duty in the hands of the party on whom the obligation is laid, a mandamus cannot command the duty in question to be carried out in a specific way... These principles mean that an order of mandamus compels the performance of a public duty which is imposed on a person or body of persons by a statute and where that person or body of persons has failed to perform the duty to the detriment of a party who has a legal right to expect the duty to be performed. An order of mandamus compels the performance of a duty imposed by statute where the person or body on whom the duty is imposed fails or refuses to perform the same but if the complaint is that the duty has been wrongfully performed i.e. that the duty has not been performed according to the law, then mandamus is wrong remedy to apply for because, like an order of prohibition, an order of mandamus cannot quash what has already been done...”** [Emphasis added].

39. In **Prabhulal Gulabchand Shah vs. Attorney General & Erastus Gathoni Miano**; Civil Appeal No.24 of 1985 the same Court stated that:

**“The person seeking mandamus must show that there resides in him a legal right to performance of a legal duty by a party against whom the mandamus is sought or alternatively that he has a substantial personal interest and the duty must not be permissive but imperative and must be of public rather than private nature.”**

40. It is therefore clear that for an order of *mandamus* to go forth the applicant must satisfy the Court that the Respondent has a legal duty whether statutorily or at common law which the applicant expects the Respondent to fulfill and the Respondent has failed to do so. In other words *mandamus* cannot issue against a person or authority for performance of a duty that the Respondent is not mandated or obliged to perform.

41. It is not in doubt that the 1<sup>st</sup> Respondent has the power to register societies. It is also not in doubt that the 2<sup>nd</sup> Respondent has the power to facilitate the licensing of persons to conduct marriages. It was therefore held by the East African Court of Appeal in **The District Commissioner Kiambu vs. R and Others Ex Parte Ethan Njau Civil Appeal No. 2 of 1960 [1960] EA 109** that:

**“Mandamus to the registrar is certainly one method of putting right an erroneous entry in the register, and is peculiarly applicable when the fault is alleged to lie with the registrar. If that official refused to act in circumstances in which he should act, mandamus would appear to be appropriate. There seems to be no reason why it should not lie in a case where it is necessary to invoke the wider powers of a court...Mandamus will not be granted if the performance of the act involves a breach of the law.”**

42. However those are discretionary powers and unless it is shown that the said Respondents have (1) abused their of discretion; or (2) exercised their discretion for an improper purpose; or (3) are in breach of the duty to act fairly; or (4) have failed to exercise statutory discretion reasonably; or (5) have acted in a manner to frustrate the purpose of the Act donating the power; or (6) have fettered the discretion given; or (7) have failed to exercise discretion; or (8) are in the exercise of their discretionary powers acted irrationally and/or unreasonably, the Court would not interfere with the exercise of their discretion either way. See the decision of **Nyamu, J** (as he then was) in **Republic vs. Minister for Home Affairs and Others ex Parte Sitamze Nairobi HCCC No. 1652 of 2004 (HCK) [2008] 2 EA 323.**

43. In this case there is no material placed before this Court to enable the Court arrive at a decision that any of the said grounds do exist. To make matters worse the applicants have not even contended that they have applied or requested the said Respondents to either register their factions or register then to conduct marriages. As expressed hereinabove, the applicant is under a duty to not only show that there is a duty imposed on the respondents to act but further that respondents have failed to act in accordance with that duty. It has therefore been held that generally a demand for the actions to be taken is a prerequisite to the grant of an order of *mandamus* though there may be exceptions to this general rule. See **The District Commissioner Kiambu vs. R & Others Ex Parte Ethan Njau Civil Appeal No. 2 of 1960 [1960] EA 109.**

44. In **S. I Syndicate vs. Union of India AIR 1975 SC 460**, the Supreme Court of India therefore stated as follows:

**“As a general rule the order would not be granted unless the party complained of has known what it was required to do, so that he had the means of considering whether or not he should comply, and it must be shown by evidence that there was a distinct demand of that which the party seeking the mandamus desires to enforce, and that the demand was met with refusal.”**

45. Therefore based on the material placed before me the prayer for an order of *mandamus* cannot be granted since the Court cannot issue an order of *mandamus* compelling the Respondents to exercise their discretion in a particular or specific manner as opposed to simply compelling them to exercise their discretion where a request or demand has been made and they have failed to act thereon.

46. The applicants also seek orders of certiorari removing into this Court for purposes of being quashed and quashing the orders of the Registrar of Societies contained in a letter dated 18<sup>th</sup> July, 2017 requiring the applicants and other members of the Original Apostolic Faith to hold a special general meeting with the sole aim of electing the General Pastor, the General Secretary and the Treasurer of the Original Apostolic Faith.

47. In **Kenya National Examinations Council vs. Republic Ex parte Geoffrey Gathenji Njoroge & Others** (supra) it was held that:

**“...an order of certiorari will issue if the decision is without jurisdiction or in excess of jurisdiction, or where the rules of natural justice are not complied with or for such like reasons.”**

48. It cannot be doubted that from a holistic reading of the powers of the Registrar under the ***Societies Act***, the Registrar is tasked with the mandate of regulating societies to ensure that they comply with the provisions of the ***Societies Act***, Cap (108) and its constitutive constitution requirements which govern its operations. Therefore there is nothing inherently wrong in the 1<sup>st</sup> Respondent directing a Society to organize a general meeting in order to conduct the elections of its officials where the Society is embroiled in management disputes to the detriment of its members. The general position regarding domestic tribunals was restated in **Rev. George M Njuguna vs. Rev. David Gitari & Another Nairobi HCCC No. 2647 of 1995** where it was held that the Court only interferes with internal affairs of the church if the constitution of the church is not being followed. In this case, clause 13 of the Church’s constitution provides for the procedure for dissolution of the Church as a Society. In my view that is the procedure that the applicants ought to follow if they want the Church split which in effect amounts to the dissolution

of the Church as it exists presently.

49. As regards the rules of natural justice it is clear that the parties were afforded an opportunity of being heard before the impugned decision was made. As regards the security of those belonging to the applicants' camp, I do not see any difficulty in the security agencies ensuring that peace is maintained during the said elections.

50. I must point out that this Court does not relish being turned into a forum at which disputes of societies or associations are resolved since it is not the duty of the Court to run and manage such private entities.

51. In the result I find no merit in this application which I hereby dismiss with costs.

52. It is so ordered.

**Dated at Nairobi this 29<sup>th</sup> day of January, 2018**

**G V ODUNGA**

**JUDGE**

***Delivered in the presence of:***

***Mr Gachichio for the Applicants***

***Ms Githu for the Respondent***

***Mr Gatumuta for the interested parties***

**CA Ooko**