

IN THE HIGH COURT OF KENYA AT MURANG'A

ELECTION/CONSTITUTIONAL PETITION NO 2 OF 2017

SIMON MWANGI KAMAU.....PETITIONER

VERSUS

CLERK OF THE COUNTY ASSEMBLY

OF MURANG'A & 3 OTHERS.....RESPONDENTS/INTERESTED PARTY

CONSOLIDATED WITH

ELECTION /CONSTITUTIONAL PETITION NO 3 OF 2017

CHARLES NJURU KIHARA & ANOTHER.....PETITIONERS

VERSUS

CLERK OF THE COUNTY ASSEMBLY

OF MURANG'A & 3 OTHERS.....RESPONDENTS/INTERESTED PARTY

PRELIMINARY DIRECTIONS/RULING

1. When this court resumed sittings on 18/09/2017 after the August/September court recess, I found on my desk in chambers these two petitions. I was requested by the registry to give directions on how the matters should proceed. Upon perusal I noted they were both constitutional petitions which allege contravention of various articles of the *Constitution of Kenya, 2010* in regard to the election recently held of the speaker of the *County Assembly of Murang'a*. The two petitions were more or less identical in content and the reliefs sought. I therefore fixed both petitions for directions on 20th September 2017, particularly on the applications for temporary relief pending in both petitions.

2. On 20th September 2017 learned counsels for all the parties except the named Interested Party appeared before me. With their consent I directed consolidation of both petitions for purposes of expedited disposal of the petitions, as is always the case with constitutional petitions. I then heard brief arguments regarding interim relief on the pending applications.

3. I was supposed to give a ruling thereon today as well as directions as to hearing of the applications for temporary relief. However, when I sat down to prepare the ruling I realized that the petitions had been registered as election petitions and reported to the *Judiciary Committee on Elections* as such. I have now been informed that the Hon the Chief Justice is expected to give directions shortly on how election-related petitions (such as the present petitions) should be dealt with. As for proper election petitions under the *Elections Act, Cap 7* in respect to Governors, Senators, Members of Parliament, Woman Representatives and Members of County Assemblies, directions and appointment of election courts has already been done and gazetted.

4. It therefore appears to me that my jurisdiction to deal with these two petitions could become an issue. I will therefore decline to deal with them for the time being until the issue I have outlined above has been clarified appropriately. These two petitions will therefore be stood over generally for now with costs in the cause. It is so ordered.

DATED, SIGNED AT MURANG'A THIS 21ST DAY OF SEPTEMBER 2017

H P G WAWERU

JUDGE

DELIVERED AT MURANG'A THIS 22ND DAY OF SEPTEMBER 2017