



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT KAKAMEGA**  
**ELECTION PETITION NO. 8 OF 2017**

**HABIL NANJENDO BUSHURU.....PETITIONER**

**VERSUS**

**I.E.B.C.....1<sup>ST</sup> RESPONDENT**

**BEDI IYADI NANCY (THE CONSTITUENCY**

**RETURNING OFFICER, BUTERE CONSTITUENCY).....2<sup>ND</sup> RESPONDENT**

**MWALE NICHOLAS SCOTT TINDI.....3<sup>RD</sup> RESPONDENT**

**ANDREW TOBOSO.....4<sup>TH</sup> RESPONDENT**

**RULING**

**Introduction**

1. This petition seeks to have the election of the 3<sup>rd</sup> Respondent, Mwale Nicholas Scott Tindi who was declared winner, and eventually gazetted as Member of the National Assembly for Butere Constituency nullified, the main ground being that the elections were not free, fair, verifiable, impartial, efficient, accurate and accountable.

2. The detailed grounds upon which the petition is premised are the following;-

*(a) Violation of the principle of free and fair election and electoral process*

*(b) Lack of impartiality, neutrality, efficiency, accuracy and accountability,*

*(c) Lack of verifiability of the results;*

*(d) Contravention of electoral regulations governing voting*

*(e) Substantive non-compliance, irregularities and improprieties;*

*(f) Discrepancies in the statutory vote tallying documents leading to the declaration of manifestly wrong results.*

*(g) Irregularities and inconsistencies in the counting, tallying of votes and filling in of forms 35A and 35B.*

*(h) Failure to properly record the votes, display the same and avail the respective form 35A to agents*

*(i) Failure to seal the ballot boxes*

*(j) Failure to secure polling stations and their environs;*

*(k) Irregular appointment of polling clerks; and*

*(l) Failure to regulate access to the use of public resources*

3. The petitioner therefore prays that it be determined that the 3rd Respondent was not duly elected and further prays that

*(a) This Honourable Court be pleased to order Scrutiny, recount and verification of all the votes cast in the election for Member of the National Assembly for Butere Constituency in the elections held on 8<sup>th</sup> August, 2017.*

*(b) This Honourable court be pleased to find that the 1<sup>st</sup> and 2<sup>nd</sup> Respondents jointly and severally abetted election offences in the course of the election for Member of National Assembly for Butere Constituency.*

*(c) This Honourable court do find that the election of Member of the National Assembly for Butere Constituency was not free and fair and was vitiated by the illegalities stated above,*

*(d) An order do issue for a fresh election for the office of Member of the National Assembly for Butere Constituency*

*(e) The Respondents be condemned to pay costs of this petition*

*(f) This Honourable court grant such other and further orders as it may deem mete and just*

### **The Application**

4. Together with the petition dated 06.09.2017, the petitioner filed a Notice of Motion pursuant to Articles 1(2); 10(1), 40 and 47 of the Constitution 2010 as well as Order 40 Rules 1, 3 and 4; Order 51 Rules 1 and 3 of the Civil Procedure Rules, Sections 3 and 3A of the Civil Procedure Act and all other enabling provisions of the law. The petitioner seeks orders-

*1. THAT pending the hearing and determination of the petition, this Honourable court do issue an order compelling the 1<sup>st</sup> Respondent to supply the Petitioners with all forms 35A and 35B for all the polling stations with respect to the parliamentary election for Butere Constituency held on 8<sup>th</sup> August, 2017*

*2. THAT Pending the hearing and determination of the petition this honourable court do issue an order compelling the 1<sup>st</sup> and 2<sup>nd</sup> Respondent to deliver into the custody and safe keeping of this Honourable court as evidence, the ballot boxes for the parliamentary election of Butere Constituency held on 8<sup>th</sup> August, 2017 until the Application herein is heard and determined.*

*3. THAT pending the hearing and determination of the petition, an order do issue compelling the 1<sup>st</sup> and 2<sup>nd</sup> Respondents to deliver into this court for custody and safe keeping as evidence, the ballot boxes for the parliamentary election of Butere Constituency held on 8<sup>th</sup> August, 2017 until*

*the petition herein is heard and determined.*

4. *THAT an order requiring:*

*(i) A recount of all ballots cast in Butere Constituency for the parliamentary Election of Butere Constituency in the general election held on 8<sup>th</sup> August, 2017 with the involvement of the petitioners' and Respondents' agents and Advocates respectively and/or;*

*(ii) A re-tally of all election results for the election of the parliamentary election of Butere Constituency held on August, 2017.*

5. *THAT the costs of this application be provided for.*

6. *THAT any other or further orders that this Honourable court may deem fit, just and expedient*

5. The application is supported by the Petitioner's own affidavit sworn on 06.09.2017, the main ground being that the process which led to the 3<sup>rd</sup> Respondent, Mwale Nicholas Scott Tindi, being declared as the duly elected Member of the National Assembly for Butere Constituency was flawed and marred with irregularities and fraud to wit rigging and illegal manipulation during voting, tallying and results delivery process to the utter detriment of the petitioner. Details of all the acts complained of are set out in the body of the grounds of the application. The petitioner singles out lack of verifiability of the results, irregularities and inconsistencies in the counting and tallying of votes and filling in of forms 35A and 35B and concludes by saying that the actions of the respondents were unconstitutional, illegal unlawful, capricious, malicious, unjustified, unreasonable, irrational, unilateral, discriminatory, in bad faith and against the core constitutional values and principles as set out in the Constitution 2010.

6. The Petitioner prays that his application be allowed.

### **Responses to the application**

7. The application is opposed. The 1<sup>st</sup> and 2<sup>nd</sup> Respondents filed grounds of opposition dated 21.09.2017 to the effect:-

1. *THAT the application is incompetent and fatally defective and lacks merit.*

2. *THAT the prayers for delivery of ballot boxes is defective and lacks merit for the following reasons;-*

*(a) No basis for the delivery of the ballot boxes as required under the Election Rules has been laid.*

*(b) There is no any allegation that the said ballot boxes are at risk in the 1<sup>st</sup> Respondent's possession*

*(c) There is no reason advanced for the need for delivery of the ballot boxes.*

*(d) No single paragraph in the grounds and the affidavit in support of the application has stated the reason for the need for the prayers.*

3. *THAT the applicant has not met the threshold for the prayers sought because;-*

*(a) There is no material particulars of the polling stations in dispute as required by rule 29(4).(sic)*

*(b) There is lack of particularity whether the ballot boxes are to be recounted or the votes*

cast

*(c) No sufficient basis has been laid out to as required by Rule 29(2).(sic)*

4. *THAT It is illogical to conduct a recount of ballot boxes on the one hand and a re-tally of the results on the other.*

5. *THAT the petitioner cannot on the one hand loathe an election process for being flawed and seek a recount and re-tally of the same process.*

6. *THAT the application is otherwise frivolous, vexatious and an abuse of the process of the Honourable Court.*

7. *THA the application is made in bad faith.*

8. The 3<sup>rd</sup> Respondent also filed grounds of opposition to the application stating THAT:-

1.) *It is incompetent , lacks merit, is fatally defective and cannot be ventilated for orders sought*

2.) *An order for recount is not an automatic right and the Applicant is duty bound to show by way of firm and credible evidence that there was a departure from a fair election process and such departure affected the final results. The petitioner has not done so in this application and petition.*

3.) *It is illogical for the Applicant to seek for order of recount and /or scrutiny of votes at the same time. The outcomes of these two processes are different and it would be illogical to conduct these two processes in one application and petition. One cannot have it both ways. It is either an issue miscounted numbers of validity of votes. Moreover, the applicant cannot on the one hand loathe an election process for being flawed and perform a recount or tally of the same process with the aim of being declared the winner if he emerges victorious pursuant to Section 80(4) (a) of the Elections Act.*

4.) *The application has been overtaken by events as the 1<sup>st</sup> and 2<sup>nd</sup> Respondents have already brought before the court the relevant forms 35 through affidavits.*

5.) *The court cannot order a scrutiny of votes and/or a recount unless the petitioner first establishes a basis and/or the petition in severely limited to one and only one prayer of either scrutiny or recount.*

6.) *The demand for safe custody of the ballot boxes for the parliamentary election of Butere Constituency is without basis and it is a fishing expedition for evidence in realization that the petition is without merit.*

7.) *That the court cannot order for recount/scrutiny of all votes before the petitioner abandons all other grounds in the petition*

8.) *That the application is speculative and omnibus*

9.) *That no ends of justice or value will be served by the application*

10.) *The application is only fit for dismissal with costs to the 3<sup>rd</sup> Respondent*

9. The 4<sup>th</sup> Respondent did not file any replying affidavit or grounds of opposition to the application but during the oral submissions, he was allowed to submit.

## The Submissions

10. At the close of the hearing of the Petitioner's case, parties were called upon to make their respective submissions. Mr. Akusala for the Petitioner submitted that the 1<sup>st</sup> and 2<sup>nd</sup> Respondents have omitted from their bundle of documents exhibited in Court form 35As for the following polling stations:- Eshitoyi Primary School, Eshikangu Primary School, Bumamu Primary School and Emunuko Primary School in addition to twenty or more polling stations. Counsel submitted that this was a calculated way to keep the truth concerning those polling stations from the court, hence the need for scrutiny and recount.

11. Secondly, counsel submitted the petitioner has met the threshold required under the law for this court to order both scrutiny and recount of the votes, and more so because of the glaring alterations in the figures, lack of the I.E.B.C. official Stamp on many of the forms and lack of signature by agents as well as the Presiding Officer's (P.O's) signatures. Counsel urged the court to allow the application.

12. Mr. Rono, counsel for the 1<sup>st</sup> and 2<sup>nd</sup> Respondents reiterated the grounds of opposition during his oral response to the application. He urged the court to find that the petitioner is not entitled to the orders sought especially so because he has failed to make an election between seeking scrutiny and a recount, urging further that the law does not allow the petitioner to seek to be granted both reliefs in one petition. Counsel referred the court to Rules 28 and 29 of the Elections (Parliamentary and County Elections) Petition Rules, 2017, (the Elections Petition Rules). Counsel also submitted that because of lack of particularity in his petition concerning the matters complained of, the application ought not to be allowed.

13. Mr. Busiega, counsel for the 3<sup>rd</sup> Respondent submitted that though counsel for the Petitioner is asking the court to order for both recount and scrutiny, none of the six prayers in the application seeks such orders. He further submitted that even if there was such a prayer, the petitioner cannot have both, and that the petitioner has to make an election as to whether he wants the court to grant an order for recount or for scrutiny. Reliance was placed two authorities;- (a) ***Justus Gesito Mugali M'mbaya –Vs \_ Anami Silverse Lisamula & 2 Others - Election Petition No. 6 of 2013 (Kakamega) [2013]eKLR AND Gatarau Peter Munya – Vs – Dickson Mwenda Kithinji & 2 others - Supreme Court Civil Application No. 5 of 2014***, for the proposition that it would be illogical to conduct the two processes of scrutiny and recount in one petition, and that an applicant has to elect to seek a recount of the votes or to have a scrutiny. I have carefully read through both authorities.

14. Counsel also submitted that what the petitioner is trying to do in this case is to go on a fishing expedition in the hope that he will chance upon some evidence that will support his case. He urged the court dismiss the application in its entirety.

15. Miss Kadenyi, assisting counsel for the 4<sup>th</sup> Respondent, supported the application and submitted that the 4<sup>th</sup> Respondent was affected equally by the illegal acts of the 1<sup>st</sup> and 2<sup>nd</sup> Respondents. She singled out the Respondents' failure to timeously serve the requisite forms upon the 4<sup>th</sup> Respondent for scrutiny when the law required them to do so. Miss Kadenyi was of the view that this court is not limited to only granting an order either for recount or scrutiny but that the court can order scrutiny, recount and re-tally in this one petition because of the grave and glaring irregularities alluded to by the petitioner. It was also Miss Kadenyi's submission that the court should proceed to enquire into the glaring irregularities complained of in order to confirm whether the elections conducted in Butere Constituency for Member of the National Assembly were fair, credible and verifiable. Counsel urged the court to allow the application.

16. In his reply to the respondents' submissions, Mr. Akusala urged the court to fall back on the provisions of the Elections Act which require the 1<sup>st</sup> Respondent to avail ballot boxes, but on this point the law is that it is no longer mandatory for the 1<sup>st</sup> Respondent to avail ballot boxes for safe custody by the court unless the court so orders as provided under Rule 16 of the Election Petition Rules. Mr. Akusala further urged the court to be guided by the provisions of Sections 100, 1A and 3A of the Civil Procedure Act which donate inherent powers to the court for purposes of issuing any and all orders for the ends of

justice, including the orders of both scrutiny and recount sought by the petitioner.

17. Counsel also submitted that the petitioner has laid a basis for the orders sought, and particularly by showing that there are glaring discrepancies in the documents (form 35A's and 35B's) filed by the 1<sup>st</sup> and 2<sup>nd</sup> Respondents.

18. He also submitted that it is mischievous on the part of the 1<sup>st</sup> respondent to supply an incomplete bundle of documents and added that if indeed the elections for Member of the National Assembly for Butere Constituency were free and fair, then they should have supplied all the documents pertaining to the election.

19. Regarding the authorities relied upon by the 3<sup>rd</sup> Respondent, Mr. Akusala urged the court to ignore the same on the ground that notice of the same was not given to the petitioner and that the 3<sup>rd</sup> Respondent was thus engaged in a game of ambushing the petitioner by relying on authorities of which the petitioner was un-aware. He also relied on Rules 28 and 29 of the Election Petition Rules in urging the court to grant the orders sought.

### **The Law**

20. The law on scrutiny and recount of votes is found in Sections 80(4)(a) and 82 of the Elections Act 2011, as read with Rules 28 and 29 of the Election Petition Rules. The two rules provide as follows:-

*“28. Recount of votes or examination of tallying.*

*A Petitioner may apply to an elections court for an order to –*

*(a) recount the votes; or*

*(b) examine the tallying, if the only issue for determination in the petition is the count or tallying of votes received by the candidates.*

*29. Scrutiny of votes*

1) The parties to the proceedings may apply for scrutiny of the votes for purposes of establishing the validity of the votes cast.

2) On an application under sub-rule (i), an election court may, if it is satisfied that there is sufficient reason, order for scrutiny or recount of the votes.

3) The scrutiny or recount of votes ordered under sub-rule (2) shall be carried out under the direct supervision of the Registrar or Magistrate and shall be subject to the directions the election court gives.

4) The scrutiny or recount of votes in accordance with sub-rule (2) shall be confined to the polling stations in which the results are disputed and may include the examination of –

a) the written statements made by the returning officers under the Act;

b) the printed copy of the Register of votes used during the elections sealed in a tamper proof envelope

c) the copies of the results of each polling station in which the results of the election are in dispute

d) the written complaints of the candidates and their representatives

- e) the pockets of spoiled ballots
- f) the marked copy registers.
- g) the pickets of counterfoils of used ballot papers;
- h) the packets of counted ballot papers;
- i) the packets of rejected ballot papers
- j) the polling day diary and
- k) the statements showing the number of rejected ballot papers.

5) For purposes of sub-rule (4)(b) every returning officer shall upon declaration of the results, seal the printed copy of the Register of voters used at the election in a tamper proof envelope and such envelope shall be stored by the Commission subject to the elections court directions under rule 16”

21. Rule 16 of the Elections Rules provides for storage of ballot boxes and other material on conclusion of the pre-trial conference under Rule 15. It is to be noted that this court did not, inadvertently, issue any directions under rule 16 of the Elections Rules upon conclusion of the pre-trial conference which was held on 23.10.2017 and on 24.10.2017. That omission has not in any considered view caused any prejudice to the petitioner.

### **Analysis and Determination**

22. From an analysis of the application as filed, the rival submissions and the law, the issue that arises for determination is whether the petitioner is entitled to the orders sought in his application dated 06.09.2017 and filed in court on same date. In determining this issue, the court has also to decide whether the court has the power to make an omnibus order for recount of votes, and for examination of tallying as well as for scrutiny. Whereas the petitioner and the 4<sup>th</sup> Respondent contend that the court has the power to do so under the “Oxygen Rule” as set out under Sections 1A, 1B, and 3A of the Civil Procedure Rules, the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Respondents contend otherwise.

23. I shall first address deal with prayers 1, 2, and 3 of the application. In my considered opinion, these three prayers are over taken by events, any order issued in the regard would be an order made in vain. The court will however, say more about custody of the ballot boxes later in this ruling.

24. I now move to the issue of whether this court has the power to issue an order for recount as well as an order for scrutiny. It must be appreciated that the petitioner herein, in asking the court for a recount is telling the court this;- “Establish the number of votes garnered by each of the seven contestants for Member of the National Assembly for Butere Constituency and tally those votes.” This is what the court said in the *Justus Gesito Mugali M’mbaya case (above)*. On the other hand in asking for an order for the scrutiny of votes as provided under Rule 16(2) and (4) of the Election Petition Rules, the Petitioner expects this court not only to determine the number of votes garnered by each of the seven candidates, but to also determine whether such votes were valid. It is however imperative that when a scrutiny is carried out, the votes cast for each of the candidates will automatically be counted. The real difference between the two processes therefore is that in a scrutiny, the primary objective of the order would be to confirm whether the votes cast are valid votes.

25. In light of the above distinction and on the basis of such decisions as the *Justus Gesito and Gatirau Peter Munya –Vs – Dickson Mwenda & 2others (above)* the court ought not to make an omnibus order for both recount and scrutiny. I so find and hold in this case.

26. With regard to what principles should guide the court on the twin issues of scrutiny and recount, I rely on the Supreme Court ruling in *Gatirau Peter Munya case (above)* in which the court set out the

following principles:-

“

*(a) any party to an election is entitled to make a request for a recount and/or scrutiny of votes, at any stage after the filing of petition, and before the determination of the petition.*

*(b) the trial Court is vested with discretion under Section 82(1) of the Elections Act to make an order on its own motion for a recount or scrutiny of votes as it may specify, if it considers that such scrutiny or recount is necessary to enable it to arrive at a just and fair determination of the petition. In exercising this discretion, the court is to have sufficient reasons in the context of the pleadings or the evidence or both. It is appropriate that the court should record the reasons for the order for scrutiny or recount.*

*(c) the right to scrutiny and recount does not lie as a matter of course. The party seeking a recount or scrutiny of votes in an election petition is to establish the basis for such a request, to the satisfaction of the trial judge or magistrate. Such a basis may be established by way of pleadings and affidavit, or by way of evidence adduced during the hearing of the petition. (Emphasis is mine)*

*(d) where a party makes a request for scrutiny or recount of votes, such scrutiny or recount if granted, is to be conducted in specific polling stations in respect of which the results are disputed, or where the validity of the vote is called into question in the terms of Rule 33(4) of the Election (parliamentary and County Elections) Petition Rules, 2013 now Rule 29(4) of the Elections (Parliamentary and County Elections) Petitions Rules, 2017.”*

27. Although the rules provide that a court will make orders for scrutiny on the application of a party, Section 82(1) of the Elections Act gives the election court the discretion to make orders for scrutiny suo moto. The sub-section reads as follows:- “An election court may, in its own motion, or on application by any party to the petition, during the hearing of an election, order for scrutiny of votes to be carried out in such manner as the election court may determine”, as was done by the court in the case of **Philip Mukwe Wasike – vs – James Lusweti Mukwe & 2 others, Election Petition (Bungoma) No. 5 of 2013**. The law therefore allows this court to order a scrutiny even where the petitioner may not have particularized polling stations for alleged irregularities, as long as the court is satisfied that such a process would assist the court in appreciating vital details of the electoral process with a view to determining the integrity of that process. The above are the principles I shall apply in determining whether or not to grant an order either for recount or scrutiny.

28. I shall start with the petitioner’s prayer for recount. After carefully analyzing the evidence and the law, I am not convinced that an order for recount is merited. In the first place, when the Petitioner was testifying, he clearly stated that his main concern is with the process of the election held for Member of the National Assembly within Butere Constituency. He testified that he had no problem with the numbers. His concern, he said was with the process leading to those numbers and in particular he said he was concerned with the numerous alterations in figures without countersigning the same and failure of both agents and Presiding Officers to sign the form 35 As. For this reason, the prayer for recount of votes would not do any good to the petitioner because he does not need it.

29. The second reason why an order for recount is not merited is that the petitioner is asking the court to grant him other orders beyond the order for recount. Rule 28 of the Elections Rules clearly stipulates that a court may make an order for recount of the votes or examine the tallying. “If the only issue for determination in the petition is the count or tallying of votes received by the candidates.” As stated earlier, the petitioner is asking the court to grant him orders for scrutiny, recount and verification of all the votes cast in Butere Constituency for Member of National Assembly on 08.08.2017 as well as asking the court to make a finding that the 1<sup>st</sup> and 2<sup>nd</sup> Respondent jointly and severally abetted election offences in the course of the election, among other orders. For the above reasons, the prayer for recount is dismissed.

30. The last issue is whether the petitioner's prayer for scrutiny is merited, particularly in view of the fact that the petitioner seems to have only one complaint concerning tallying centre known as Multi-Media University at paragraph 27 of his affidavit. The petitioner has also, at paragraph 39 of his affidavit made some general statement to the effect that his agents were never furnished with forms 35A in 122 polling stations. He also alleges that in about 28 polling stations out of 201 polling stations, the presiding officers failed and/or neglected to allow the Petitioner's agents to sign the respective form 35A's and/or state the reasons for their refusal to sign the same.

31. In the course of the hearing of the Petitioner's case, and also during the hearing of the 1<sup>st</sup> and 2<sup>nd</sup> Respondents' case, it became clear to the court that in a number of polling stations the presiding officers did not sign the Form 35A, or the agents did not sign or there were alterations without any countersignatures. The 1<sup>st</sup> Respondent admitted as much, but attributed the said omission to human error. Evidence also came out showing that some vital information, such as when a polling station was closed, is missing on a number of the forms, and again this was said to be an omission due to human error.

32. In light of all the above, and because I am not satisfied that vital details of the electoral process have been brought out to enable me form concrete impressions on the integrity of the electoral process, I am inclined to allow the Petitioner's prayer for scrutiny by the powers donated to me under Section 82(1) of the Elections Act, 2011. I am satisfied that sufficient reason exists for such an order. In any event, the 1<sup>st</sup> Respondent confirmed to the court that if called upon to do so, she would avail all the form 35As for Butere Constituency. I am satisfied that no prejudice would accrue to any of the respondents by reason of this order for scrutiny.

33. As I make this order, I must hasten to add that the order is not meant to serve as a fishing expedition intended to bring out fresh evidence in support of the Petitioner's case. The exercise is intended to assist the court in arriving at affair and balanced assessment of the electoral process within Butere Constituency.

34. Accordingly, I make the following orders:-

1. The scrutiny order herein shall cover all the 124(one hundred twenty four) polling stations.
2. All the election materials and records in respect of all the 124 polling stations for the election of Member of the National Assembly for Butere Constituency, currently in the custody of the 1<sup>st</sup> and 2<sup>nd</sup> Respondents be immediately secured by each party to the petition placing their own seals thereon.
3. The scrutiny exercise shall be undertaken and overseen by the Deputy Registrar of this court to be assisted by Six(6) duly vetted Judicial Staff among them the Principal Executive Officer (PEO) of this court who will be authorized in writing to participate in the exercise.
4. The 1<sup>st</sup> and 2<sup>nd</sup> Respondents shall provide adequate and secure transport for the election materials from the IEBC offices to the court where a room shall be secured for the exercise.
5. Each party to the petition shall authorize and deputize in writing two agents to observe the exercise. Such agents shall be admitted into the room set aside for scrutiny upon production of their Kenyan National Identity Card, or valid Kenyan Passport together with the letter of authority from their principals.
6. The parties themselves shall NOT be allowed into the room where the scrutiny exercise shall take place. Counsel may however be allowed into the scrutiny room on advance notice to the DR, but shall only observe the process.
7. Any counsel and/or agent who interrupts the scrutiny exercise in any manner whatsoever shall

face instant sanctions from the Deputy Registrar by being ejected out of the scrutiny room.

8. Upon completion of the scrutiny exercise, the Deputy Registrar of this Court shall prepare a report of his findings which report shall be signed by the authorized agents, unless such agents decline to sign.

9. The report shall thereafter be presented to the court on 04.12.2017 at 2.00PM

Orders accordingly,

Ruling delivered, dated and signed in open court at Kakamega this 23<sup>rd</sup> day of November , 2017

RUTH N. SITATI

JUDGE

In the presence of;-

.....Miss Mukolwe for Akusala (present)...for Petitioner

.....Mr. Rono (present)...for 1<sup>st</sup> and 2<sup>nd</sup> Respondents

.....Mr. Busiega (present).....for 3<sup>rd</sup> Respondent

.....Mr. Amasakha (present).....for 4<sup>th</sup> Respondent

.....Polycap.....Court Assistant