

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISII

ELECTION PETITION NO. 12 OF 2017

(CONSOLIDATED WITH ELECTION PETITION NO. 10 OF 2017)

IN THE MATTER OF ELECTIONS ACT, 2011

AND

**IN THE MATTER OF THE ELECTIONS (PARLIAMENTARY AND COUNTY ELECTION)
PETITION RULES, 2017**

AND

**IN THE MATTER OF THE ELECTION FOR MEMBER OF NATIONAL ASSEMBLY FOR
NYARIBARI CHACHE CONSTITUENCY**

CHRIS MUNGA N. BICHAGE 1ST PETITIONER

ZAHEER JHANDA 2ND PETITIONER

JAMES F. O KENANI 3RD PETITIONER

VERSUS

I.E.B.C 1ST RESPONDENT

JULIUS MEJA OKEYO (RETURNING OFFICER) 2ND RESPONDENT

RICHARD NYAGAKA TONGI 3RD RESPONDENT

RULING

Under Section 146 (3) of the Evidence Act provides:

“Section 146 (3): The re-examination shall be directed to the explanations of matters referred to in cross-examination; and if new matter is, by permission of the court introduced in re-examination, the adverse party may further cross-examine upon that matter.”

The witness was questioned on matters relating to Irondi Polling Station. He was referred to a particular form. He cannot be legally barred from giving explanations on that matter especially when based on a document filed by the 1st Petitioner and which forms part of the record.

Dated, Signed and Delivered in Kisii this 20th day of December, 2017.

A. K. NDUNG'U

JUDGE