



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CIVIL APPEAL DIVISION

CIVIL APPEAL No. 510 of 2011 (As consolidated with

HCCA Nos. 441 and 219 of 2011)

BISHOP ALLAN NJERU.....}

PASTOR CYRUS NJOGOO AYUB.....} APPELLANTS

PASTOR ANDREW MURAGE.....}

KENYA REDEEMED CHURCH EXECUTIVE BOARD.}

VERSUS

SAMUEL M'OBUYA.....}

FLORENCE WANJIRU TIRUS.....}

DAVIS M. MALOMBE } RESPONDENTS

SOLOMON BUNDI RUKARIA}

WILLIAM NYAMU}

DIRECTIONS

This matter was listed for judgment scheduled to be delivered today. On the two occasions that I handled this matter before making the order for judgment I had not conclusively gone through the record before me starting with proceedings in the lower court culminating to the appeals now before the High Court. Other Judges had handled the matter before.

In the process of preparing to write the judgment, I formed the opinion that in the first place that this matter should not have reached the courts before the internal mechanism of the parties had been exhausted.

At the centre of the dispute is the umbrella church known as Kenya Redeemed Church, and it is clear from the material before me that there is a fight for control of resources. There is a clear division between some members of this church and The Executive Board.

I am averse to resolving disputes involving any church through the court system unless and until the parties have tried everything possible to resolve the issues. I have gone through the constitution of Kenya Redeemed Church which is part of the documents in this record.

Regrettably, dispute resolution mechanism is not clearly, if at all, defined in this constitution. I believe that is where the dispute rests. Having said so, I am of the considered view that mediation would be the best alternative in resolving the dispute herein.

Accordingly I decline to write any judgment in this matter and direct that the parties shall within 90 days from today, engage an agreed mediator who shall be given the mandate by the parties to look into the dispute and come out with a report geared towards resolving the dispute.

I make these directions under Order 46 Rule 20 of the Civil Procedure Rules. The report shall be prepared and signed by all parties within the said 90 days. Counsel appearing shall then inform the court through the Deputy Registrar of the completion of the report and when it should be filed.

I notice that there are some stay orders on record and therefore the status quo shall be maintained in the course of this mediation. Further mention on 19.2.2016

Orders accordingly.

Dated and delivered at Nairobi this 22nd Day of October, 2015.

A.MBOGHOLI MSAGHA

JUDGE