



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**CONSTITUTIONAL AND HUMAN RIGHTS DIVISION**

**Petition No.328 Of 2007**

**Between**

**Joseph Mbui Magari.....Petitioner**

**And**

**Kenya Anti-Corruption Commission.....1st Respondent**

**The Hon. Attorney General.....2nd Respondent**

**RULING**

1. The Petition herein was heard by Waweru, Kimaru and Sitati, JJ and after Submissions were concluded on 14/11/2009, the learned Judges retired to consider the matter and deliver their judgment. Sadly, to date no judgment has been delivered and on 24/7/2013, Waweru J. sitting alone in Chambers gave directions to the effect that the Bench was unable to deliver any judgment as all the Judges in it had been transferred “*out of Nairobi to different parts of the Country*”. He therefore directed the file to be placed before a Judge in the Constitutional and Human Rights Division for further directions and on 13/1/2014, Majanja J. referred it to me.

2. On 14/1/2014 after hearing advocates appearing for the parties, I decided to make a Ruling on what should be done to finalise the matter.

3. Having now perused the file and on hearing what the parties had to say, my mind is clear that;

*i) Since all the three Judges who heard the matter are still in service and only one is serving outside Nairobi, the interests of justice would dictate that the same Bench should be recalled to determine what should be done in the circumstances now obtaining.*

*ii) No other Judge or Judges has any lawful authority to re-hear the matter and/or deliver a judgment based on the Submissions on record.*

4. In the event, let this matter be placed before Waweru J. the Presiding Judge of the 3-Judge Bench, on 24/1/2014 for Further Orders and Directions.

5. Orders accordingly.

**DATED, DELIVERED AND SIGNED AT NAIROBI THIS 21ST DAY OF JANUARY, 2014**

**ISAAC LENAOLA**

**JUDGE**

**In the presence of:**

Irene – Court clerk

Mr. Wando holding brief for Mr. Too for 1st Respondent

Mr. Mogeni holding brief for Mr. Bowry for Petitioner

Miss Spira holding brief for Mr. Njogu for 2nd Respondent

**Order**

Ruling duly delivered.

**ISAAC LENAOLA**

**JUDGE**