



IN THE HIGH COURT AT NAIROBI

MILIMANI LAW COURTS

CONSTITUTIONAL AND HUMAN RIGHTS DIVISION

PETITION NO. 1450 OF 2005(OS)

BETWEEN

JANE WANGARI KARIUKI.....1ST APPLICANT

JOHN SEKOU KARIUKI.....2ND APPLICANT

ROSEMARY WANJIKU MACHUA (nee KARIUKI)....3RD APPLICANT

GORDON NJEE KARIUKI.....4TH APPLICANT

ANNE MUMBI MUIRURI (nee KARIUKI).....5TH APPLICANT

ANTONY MUCHIRI KARIUKI.....6TH APPLICANT

MARK KARIUKI MWANGI.....7TH APPLICANT

AND

THE ATTORNEY GENERALRESPONDENT

RULING NO. 3

1. When the Chamber Summons dated 9th May 2013 came up for hearing on 22nd May 2013, I directed as follows;

The respondents, that is the Attorney General, Director of Public Prosecutions or Inspector General of Police furnish this Court within 14 days an affidavit/s disclosing on oath any reports and or any reports made to the police under section 386(1) of the Criminal Procedure Code as it relates to the death of the Late Honourable Josiah Mwangi Kariuki (deceased).

2. In compliance with the said orders, the respondents filed two affidavits, the first one by Titi Ayiera, the Legal Officer in the National Police Service, who swore an affidavit on 19th December 2012. The said affidavit is a replying affidavit to the originating summons and it does not contain any information or material in answer to the Chamber Summons.
3. A further replying affidavit was filed sworn by John Kariuki, Officer in Charge Serious Crime

Unit, on 16th August 2013. He depones that after the orders of 22nd May 2013 were issued, a search was conducted at the police archives, office of the Directorate of Criminal Prosecutions so as to trace records relating to the deceased's case. He depones that the said search did not bear any fruit as no information of the case could be traced.

4. It is therefore clear that the respondents' case is that no information exists in relation to the deceased's case. This has now been confirmed on oath and therefore the Chamber Summons dated 9th May 2012 is spent. The Court will now be at liberty to deal with the replying affidavits and make inferences if necessary when considering the originating summons.

5. I make no order as to costs.

DATED and DELIVERED at NAIROBI this 25th March 2014.

D.S. MAJANJA

JUDGE

Ms Aullo instructed by Soweto and Company Advocates for the applicants

Mr Moimbo, Litigation Counsel, instructed by the State Law Offices for the respondent.