

REPUBLIC OF KENYA

High Court at Nairobi (Nairobi Law Courts)

Petition 425 of 2012

JARED JUMA PETITIONER

AND

KENYA BROADCASTING CORPORATION 1ST RESPONDENT

THE BOARD OF DIRECTORS

KENYA BROADCASTING CORPORATION 2ND RESPONDENT

CHARLES WAIHAKA WAIHENYA 3RD RESPONDENT

RULING

1. The respondents filed the Notice of Motion dated 30th October 2012 seeking security for costs. The application was argued on 5th November and I ruled as follows;

Upon perusing the Notice of Motion dated 30.10.2012, it became apparent that there is a similar case pending before the court namely; JR 339 of 2012 Republic v Kenya Broadcasting Corporation ex-parte Jared Juma. It appears to raise similar issues. The petitioner should now show cause why this petition should not be struck out.

2. When called upon to show cause, the petitioner stated that the two cases differ materially and that this petition was specifically for the purpose of enforcing fundamental rights and freedoms. I have now perused the file in *Nairobi HC Misc. No. 339 of 2012* and although it raises similar underlying issues, it concerns the appointment of the Chief and Deputy Editor-in-Chief of the Kenya Broadcasting Corporation in March 2012 and the procedure adopted. *Nairobi Petition 425 of 2012* deals with the appointment of the Managing Director of the Corporation.

3. In view of the fact that the same issues are raised in respect of these positions, it is proper that the two cases be heard together. I hasten to add that in both cases, the High Court has jurisdiction to deal with and enforce the provisions of the Constitution under **Article 165**.

4. I am not convinced that the petitioner's cause of action is entirely frivolous and in view of the fact that the case is one for enforcement of fundamental rights and freedoms, I am not inclined to make an order for security for costs who consequence will be to limit the right of access to the court contemplated in **Article 22**.

5. In view of the foregoing, I decline to order security for costs and I therefore dismiss the Notice of Motion dated 30th October 2012 but with no order as to costs. I direct that this petition be mentioned on 12th November 2012 before Justice Warsame in the Judicial Review Division together with *Nairobi HC Misc. No. 339 of 2012*.

DATED and DELIVERED at NAIROBI this 8th day of November 2012

D.S. MAJANJA

JUDGE

Mr Jared Juma, the petitioner in person.

Ms Kisa instructed by Kangethe and Mola Advocates for the respondents.