



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI LAW COURTS
CONSTITUTIONAL AND HUMAN RIGHTS DIVISION
PETITION NO. 549 OF 2012

BETWEEN

MICHAEL WACHIRA NDERITU.....1ST PETITIONER
SILVESTER KIHURIA MURIITHI.....2ND PETITIONER
DANIEL WACHIENI KARINGA.....3RD PETITIONER
KIAMBITI K. KIHUMBA.....4TH PETITIONER

AND

MARY WAMBUI MUNENE AKA MARY WAMBUI.....1ST RESPONDENT
DIRECTOR OF PUBLIC PROSECUTIONS.....2ND RESPONDENT
HON. ATTORNEY GENERAL3RD RESPONDENT

AND

THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION...1ST INTERESTED PARTY
THE NATIONAL ALLIANCE PARTY (TNA)2ND INTERESTED PARTY

RULING

1. The application before me today is the chamber summons dated 29th November 2012 and it seeks certain conservatory orders to wit, “*pending the hearing and determination of this application a conservatory order do issue restraining the interested party from nominating and for registering the 1st respondent as a candidate for the office of Member of Parliament for Othaya Constituency.*”

2. I have given directions as both hearing of a preliminary objection to be lodged by the 1st respondent and the issue is whether I should issue a conservatory order. I must make it very clear that this court, the High Court, has jurisdiction under **Article 23** and **Article 165** to issue such an order but

whether I should do so depends on the facts before me.

3. I am far from convinced that this is an appropriate case to issue such orders as the nomination is yet to take place and if it does and it infringes the Constitution then this court can set it aside without difficulty as the matter is really a party matter.

4. I decline and reject the prayer for conservatory orders at this stage.

DATED and DELIVERED at NAIROBI this 5th day of December 2012

D.S. MAJANJA
JUDGE