

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (MILIMANI LAW COURTS)

PETITION 272 OF 2009

**IN THE MATTER OF SECTION 84(1) OF THE CONSTITUTION OF THE REPUBLIC OF
KENYA**

AND

**IN THE MATTER OF THE ALLEGED CONTRAVENTION OF FUNDAMENTAL RIGHTS
AND FREEDOMS UNDER SECTIONS 70, 72(1) and 74 OF THE CONSTITUTION OF KENYA**

B E T W E E N

JACINTA WANGARI MACHARIA..... PETITIONER

AND

THE HON. ATTORNEY GENERAL..... 1ST RESPONDENT

THE COMMISSIONER OF POLICE..... 2ND RESPONDENT

PETER MACHARIA KARIUKI..... 3RD RESPONDENT

R U L I N G

On 15th June, 2009, Ms. Thongori for the petitioner requested that I disqualify myself from hearing the matter because during her informal request on 3/6/2009 that security be withdrawn, I remarked that security has to do with ownership.

In my view, that remark, even if made, cannot be evidence of bias. Even today, I will not be able to make an order for removing security that already is in place, without knowing exactly the owner of the asset that is being provided security, who has hired that security arrangement, and what the security arrangement is protecting or securing. If that is bias, so be it.

However, since justice should not only be done, but be manifestly seen to be done, I do hereby disqualify myself from hearing this matter.

Dated and delivered at Nairobi this 20th July, 2009.

George Dulu

Judge.