



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MALINDI
Election Petition 1 of 2008

**IN THE MATTER OF THE NATIONAL ASSEMBLY AND PRESIDENTIAL ELECTIONS ACT,
CHAPTER 7, PARLIAMENTARY AND PRESIDENTIAL ELECTION REGULATIONS THE
NATIONAL ASSEMBLY (ELECTION PETITION) RULES, THE ELECTION OFFENCES ACT,
CHAPTER 66**

AND

**IN THE MATTER OF THE PARLIAMENTARY ELECTION FOR MAGARINI
CONSTITUENCY**

BETWEEN

ESPOSITO FRANCOPETITIONER

VERSUS

AMASON KINGI JEFFAH1ST RESPONDENT

AMINA KALE 2ND RESPONDENT

ELECTORAL COMMISSION OF KENYA3RD RESPONDENT

R U L I N G

I have before me, two interlocutory applications filed by respective parties to this petition.

One, application by way of Notice of Motion dated 8th February 2008 for extension of time within which to deposit security for costs filed by the petitioner herein on 11th February 2008.

Two, application by way of Notice of Motion dated 8th February 2008 for striking out the petition. It was filed by the respondent herein on 11th February 2008.

I have carefully perused both applications. Having done so, I now give the following orders, by way of directions:-

- 1) The application by way of Notice of Motion dated 8th February 2008 for extension of time within which to deposit security for costs shall be heard first.

Towards that end, the following affidavits shall be filed and served within the time frame given hereunder:

- (i) Two replying affidavits by two High Court Registry officials, namely Mrs. Gladys Kalama and Mr. Douglas Randu, touching on issues as relates to them raised by the affidavit in support.
 - (ii) Replying affidavits by the 1st, 2nd and 3rd respondents, on the issues raised by the affidavit in support and affidavits of the said two High Court officials, including any points of law (if any) that they may deem pertinent to the issues at hand.
 - (iii) Further affidavit by the petitioner or his advocates.
- 2) (i) Replying affidavits of the two High Court Registry officials aforesaid to be filed and served within 3 days from today's date.
- (ii) Replying affidavits of the 1st, 2nd and 3rd Respondents (if any) to be filed 3 days from the date of service of affidavits by the two High Court Registry officials.
- (iii) Further affidavits by the petitioner's advocates to be filed and served 3 days from the date of service of replying affidavits upon them.
- (iv) Liberty to apply to any party to cross-examine any deponent of affidavits filed herein, in terms of the provisions of Order XVIII Rule 2 of the Civil Procedure Rules.
- 3) The application by way of Notice of Motion dated 8th May 2008, for extension of time within which to deposit security for costs, to be heard on 21st February 2008 *inter partes*.
- 4) Upon the ruling on this application being delivered, the respondent be at liberty to fix the application by way of Motion for striking out the petition for hearing.

Dated and delivered at Malindi this 13th day of February 2008.

N. R. O. Ombija

JUDGE