

REPUBLIC OF KENYA

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

Election Petition 27 of 2008

STANLEY LIVONGO LIVONDO PETITIONER

VERSUS

RAILA AMOLO ODINGA 1ST RESPONDENT

JOSEPHINE MWENGI 2ND RESPONDENT

ELECTORAL COMMISSION OF KENYA 3RD

RESPONDENT

RULING

This is an application by the 2nd and 3rd Respondents for Review under Order 44 of the Civil Procedure Rules. They seek the following order:

“That this Hon. Court do review its Order on Costs in its Ruling of 4th April, 2008 and award Costs to the 2nd and 3rd Respondents along with the 1st Respondent.”

By a Ruling handed down 4th April, 2008, I disallowed the Petitioner’s application to examine on oath four deponents, and awarded costs only to the 1st Respondent. Mr Gaturu, Counsel for the 2nd and 3rd Respondents was present and participated in those proceedings. He is aggrieved that costs were not awarded to his clients. He is right. Costs should have been awarded to his clients, but I did not do so erroneously.

In opposing the 2nd and 3rd Respondent’s application, Mr Wamae, Counsel for the 1st Respondent, argued that the issue before the Court, at that time, was essentially between the Petitioner and the 1st Respondent, and accordingly the other Respondents should not be awarded costs. I am unable to accept that argument. The 2nd and 3rd Respondents were indeed dragged into the Petitioner’s application; they were forced to sit through it; and they did indeed participate in the same; and are fully entitled to the costs. Accordingly, I allow their application dated 3rd November, 2008 and award them the costs of that application to be paid by the Petitioner.

Dated and delivered at Nairobi this 17th day of December, 2008.

ALNASHIR VISRAM

JUDGE