



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT KISUMU**

**MISC 280 OF 03**

**REPUBLIC ..... APPLICANT**

**VERSUS**

**THE REGISTRAR OF SOCIETIES**

**EX PARTE**

**MOHAMED HAJI ISSA ..... RESPONDENT**

**AND**

**IN THE MATTER OF AN APPLICATION FOR LEAVE TO APPLY FOR JUDICIAL REVIEW  
FOR ORDERS OF CERTIORARI AND PROHIBITION**

**ISMAIL S. MBOYA**

**HARUN R. GUKAH**

**MOHAMMED ASLAM KHAN**

**(ACTING AS THE OFFICIALS OF KISUMU MUS ASSOCIATION) ..... INTERESTED  
PARTIES**

**RULING**

The applicant Mohammed Haji Issa (hereinafter called (Haji) filed a Notice of Motion dated 9th December 2003 against the respondent, the Registrar of Societies (Registrar) and the four officials of Kisumu Muslim Association interested party (affected party), in which he was seeking mainly 3 three orders and an order for costs. The orders sought were as hereunder:

- "1). That the decision of the Registrar of Societies made in July 2003 by which officials purportedly elected on 25 th May 2003 were registered as officials of the Kisumu Muslim Association be removed into this Court and be quashed.
- 2). The Registrar of Societies be prohibited from recognizing and/or registering the persons purportedly elected in the election of 25 th May 2003, as bona fide officials of the Kisumu Muslim Association.
- 3). The persons purportedly elected on 25 th May 2003 of officials of the Kisumu Muslim Association be prohibited from holding themselves out to any person(s) as officials of the said Association."

The application was supported by statement of facts, grounds relied upon and Supporting Affidavit. It is the contention of the applicant that the Registration and recognition of the persons, elected on 25th May 2003 of officials of Kisumu Muslim Association is against the constitution and Customs of the Association, and the same contravenes the Societies Act. It is contended that the election which took place on 25th May 2003, was not sanctioned by the Association's constitution. It is alleged by the applicant at the time the election took place, there was 'a Court order restraining the holding, of election and the said order was issued on 23 rd May 2003. It is also the contention, of the applicant that by the time the said officials were being registered, he has lodged an objection which the Registrar was bound to consider and determine, therefore by failing to c onsider the said objection, the Registrar was in breach of the Rules of Natural Justice.'

The applicant maintains that since the election was not sanctioned by the constitution and since the said election was restrained by a lawful Court order, then the current officials do not have legitimacy. And both the election and subsequent registration is a nullity and void abinito . It was the submission of Mr. Onsongo Learned Counsel for the applicant that the election which took place on 25th May 2003 contravenes Sec. 29(1) as all the Members of the Association were not invited, and no full and true account of the monies received and paid in accordance with the laid rules of the Association. In short he is submitting that all the former officials were not invited and the proper machinery for the Calling of the election was not followed. It is the Contention of Mr. Onsongo that the Annual General Meeting of Kisumu Muslim Association was to be held in April every year, hence the subject/dispute arises out of an election held on 25th May 2003.

In any case Mr. Onsongo continued to submit that the fact that the election was, held in May 2003 to the exclusion of his client and the fact that there was a Court order clearly mitigates against the decision of the Registrar, He asserts that he lodged an objection and it was incumbent upon the registrar to dispose off the objections before she could take any other steps. He said that Section 18(1) of Cap 108 should have guided the Registrar on what to do in the event of a dispute, hence she acted outside her lawful jurisdiction. It was further contended that the Registrar gave conflicting signals through her letters dates 1st July and 9th July 2003. It was the humble submission of the learned Counsel for the applicant that there were two suits that were pending before court by in respect of the subject matter at the time the registrar accepted the new officials as bona fide in SPMCC Civil Case Number 845 of 02, stopped the elections while Chief Magistrate Civil Case Number 504 of 2003 was to stop the new office bearer assuming office or registrations, this facts were within the knowledge of the Registrar. In short the Registrar's decision to register the new officials was, contrary to the constitution of the Association and the Registrar exercised her powers, when she ought to have done and she failed or neglected to exercise due process of the Law and Procedure. In his view there was grave misdirection of the Law and discretion to the exclusion of the applicant, Mr. Onsongo urged me to allow the application.

However the application was vehemently resisted by Mr. Obwayo Learned Counsel for the Registrar, who filed a Replying Affidavit sworn by Mrs. Nyiha who made the decision which is the subject of this application. In her affidavit the Registrar confirms that the four interested parties are the current registered officials of Kisumu Muslim Association and they are registered after having complied with Section 17 of the Societies Act, which requires filing of notification within 14 days after election. She further states that she registered the current officials after the injunction against them was lifted and states Senior Principal Magistrate Civil Case Number 504 was filed after the Society's Current officials names were presented for registration. To fortify the above facts, Mr. Obwayo submitted that the application is frivolous, as the decision to be quashed, has not been annexed to the application and hence the Court's powers are limited. The failure to annex the decision is fatal to the Applicant's Motion. He further submits that there is no allegation that the Registrar acted outside her Powers to Warrant interference of the Court.

Since the Registrar was not a Party to Chief Magistrate Civil Case Number 845 of 2002 and Senior Principal Magistrate Civil Case Number 504 of 2003, hence the Registrar was a 3rd Party and can never be blamed for what happened with any Court Orders either Stopping elections and subsequent registration of the current officials. He says the Registrar acted and was guided by Section 17 of Cap 108 and the applicant cannot have a justifiable complaint against the Registrar and the exercise of her discretion. Lastly he submits that since High Court Civil Case Number 106 of 2003 is still pending for the

ratification of the new office bearers, then the Registrar has done what was possible under the circumstances, therefore he urged me to dismiss the application for it has no Merit.

Mr. Odunga learned Counsel for the interested Parties was equally not left behind on his, able submission urging me to dismiss the application, for no decision to be quashed was annexed on the said application. He submitted that prayer B and C cannot be granted it does not appear as a relief in the statement and the Matter is purely Private, hence the Notice of Motion is incompetent and the prayer sought cannot fall within the perimeters of judicial review, says Mr. Odunga.

Although the above represent a brief summary of the matters that were covered on the statement of facts, affidavits and submission by the Learned Counsels. It is important to recite a brief history of the dispute.

On 27th September 2002 Chief Magistrate Civil Case Number 845 of 2002 was filed at Kisumu Chief Magistrate's and simultaneously a Chamber Summons accompanied the plaint.

Which inter alia, prayed for the revocation of the election earlier held by the Association.

The said suit was against the then officials of Kisumu Muslim Association and as the suit and application were pending, the parties on 3rd April 2003 entered into consent that the trustee be managing, and/or running the Association a period of 45 and the matter to be mentioned on 29th May 2003. It was agreed that the 3 trustees to run and Manage the affairs of the Association as team, though the veracity of the said consent was later contested. The trustees, were one Mr. Hamisi Bilali and two others. However, to the exclusion of the others Mr. Bilali orchestrated what has, now become the Kisumu Muslim Association Saga. He Unilaterally started organizing fresh election and in the process he committed fraud, forgery and misrepresentation, However nobody raised his hand despite the fact the said person was misusing, misinterpreting and outrightly abusing the due process of the law, Mr. Bilali took an election date purportedly as a trustee and conducted election on 25th May 2003, wherein the current official purportedly elected. As he was in the process of organizing the said election, just two days before the said election, the Principal Magistrate Hon. M. Rungare in CMCC No. 845 of 2002 gave an order in terms hereunder:

"Pending the hearing and determination of this application interparties a temporary order of injunction is hereby issued restraining the holding of the election of Kisumu Muslim Association scheduled for 25 th May 2003, by the plaintiff's or their agents, servants and/or Persons claiming their authority whatsoever."  
"Application to be heard inter parties hearing on 5.6.2003"

It has been alleged that the order was served but the election took place. When the above Matter came up for mention on 29th May 2003, the Advocate for the plaintiff's tried to legitimize the election and officials but the Court declined to ratify the Status Quo now obtained by the current officials of Kisumu Muslim Association."

As a result of that elections several, suits were filed by the protagonists herein. In Senior Principal Magistrate Civil Case Number 504 2003 was filed by the applicant herein and 4 others against the current officials of the Association culminating in an order restraining the current officials from interfering with the management and running of the Associations, particularly holding themselves as officials of the Association. After protracted Litigation the application was dismissed, and the applicant and his group filed High Court Civil Appeal Number 146 of 2003 and on 16th September 2003, the High Court gave an order:

"That pending the hearing or determination of this application on 25th September 2003 an injunction to issue restraining the respondents acting by themselves or by their agents from interfering with the management of the affairs of the Kisumu Muslim Association and more particularly from holding themselves out as bona fide officials of the Association or in any other way hindering the rights of the 1, 2, and 3 rd Appellants from continuing to act as Chairman, Secretary and Treasurer of the Association respectively."

I confirm that the application which gave the above orders was dismissed by Hon Justice Tanui and I have too determined the Appeal by striking it..

I also understand High Court Civil Case Number 106/03 seeking ratification and confirmation of the current officials is, still pending before the High Court for Ruling, However I do not know of the position. Winam Resident Magistrate Civil Case Number 232 of 2003 filed by Ismail Abdul Aziz against the current officials. I cannot pretend to have covered everything in this Saga, However, I must confess the above may reflect a fair summary of the Kisumu Muslim Association Saga.

The Kisumu Muslim Association runs and Manages a number of Social, or educational institution such as Muslim Secondary School, Almumin integrated Academy, Muslim Primary School and owns a number of residential houses in Kisumu. Such educational institutions, cater for the well being of not only the Muslims but other communities within Kisumu, therefore it is important, to appreciate that unless properly managed, the danger is grave and beyond redemption, I must say that whoever gets the nod to be bona fide officials would have the Mandate to run the institutions. Learning has been disrupted and the school management in total confusion. As I write this ruling the principal of Kisumu Muslim Secondary School wrote a long letter complaining against the confusion and blaming the judiciary for the said.

I have also noted during this saga, the parties and their supporters committed crimes, either in enforcement of their rights and protection of the same, while the police might have closed their eyes and ears to the saga. It is Unfortunate the above is the state of affairs I am bound to determine.

The application is seeking judicial review to quash the decision of the registrar, however, before I address that, the issue of the election which took place on 25th May 2003 must be evaluated. It is not in dispute that the Court did not permit the elections, it is also not in dispute the person who called, organized and supervised the election was Mr. Bilali and he did that to the exclusion of other two trustees, further the Court injuncted and refused to legitimize the election which took place on 25th May 2003: Sec. Isaacs Vs Robertson (1989) 3 ALL ER 140 - 42:

"It is the plain and unqualified obligation of every person against or in respect of whom an order is made by a Court of competent jurisdiction to obey it Unless and Until that is discharged. The uncompromising nature of this obligation is shown by the fact that it extends even to cases where the person affected by an order believes it to be irregular or even void."

Lord cottenham L.C. chuck V cremier (1846) ER 885: "A party who knows of an order whether null or void, regular or irregular cannot be permitted to disobey it -- ----- It would be dangerous to hold that the suitors or their solicitors, could themselves judge whether an order was null or valid - whether it was regular or irregular, that they should come to the Court or not take upon themselves to determine such a question. That the course of a party knowing of an order which was null or irregular or who might be affected by it is plain. He should apply to the court that it might be discharged. As long as it existed it must not be disobeyed such a being the nature of this obligation, two consequences will in general follow from its breach.

The first is that anyone who disobeys an order of the Court is in contempt and may be punished by committal or attachment or otherwise - see Omega enterprise Gicheru J. A."

It is clear that a party who, disobeys the authority of the Court cannot benefit from the same Court, and the fact that the elections which took place on 25th May 2003 was never permitted by the Court, since the dispute which was before court was election and legitimate officials of Kisumu Muslim Association.

In order therefore to determine the first prayer in the Notice of Motion, I have to juxtapos the issue of registration with the legitimacy or impropriety of the election which took place. It is my considered opinion that the determination of the purported registration of the current in favour of the applicant would definitely dissipate other prayers in the motion. The basis of any registration would in my view depend on the validity of the election which was held on 25th May 2003 and whether the said election was properly constituted by the relevant and competent authority.

I now wish to consider the registration of the current official by the registrar, it was contentedly the respondent and the interested party's Advocates that there is no decision which can be quashed by the Court. It is imperative to note that the decision which the subject of the complainant before Court was that letter addressed to Mr. Ouma Advocate which says:-

"Ref. No. Soc./927

Department of the Registrar General,

P. O. Box 30031,

NAIROBI.

9th July, 2003.

C.B.G. Ouma & Co.,

Advocates,

P. O. Box 2532,

KISUMU.

Dear Sir, RE: KISUMU MUSLIM ASSOCIATION

CIVIL SUIT NO. 504 OF 2003

Further to my letter dated 1 st July, 2003, the above matter refers.

I note that the application for injunction against the newly elected officers taking office was struck out by court order dated 30 th June, 2003.

The following are therefore the current officers of the above named society: -

Chairman - Ismail S. Mboya

Secretary - Harun R. Gukah

Treasurer - Mohammed Aslam Khan

Needless to say, this office will abide by whatever order may issue from the court in future in the above captioned matter.

Yours faithfully,

C. K. NYIHA (MRS)

SNR ASST. REGISTRAR OF SOCIETIES

C.C. The Secretary,

Kisumu Muslim Association,

P. O. Box 98,

KISUMU.

Ali N. Mohammed,

P. O. Box 98,

KISUMU."

However the confusion and contradiction was brought about by two letters dated 1st July 2003 written by the registrar to Mr. Ouma :-

"REF: SOC/927

Department of the Registrar General,

P. O. Box 30031,

NAIROBI.

1st July, 2003.

C.B.G. Ouma & Co.,

Advocates,

P. O. Box 2532,

KISUMU.

Dear Sir,

RE: KISUMU MUSLIM ASSOCIATION

CIVIL SUIT NO. 845 OF 2002 I refer to your letter dated 18 th June, 2003 Ref. CBH/GEN/2003 and note that the elections of 25 th May, 2003 were injunctioned by the court vide court order dated 23rd May, 2003.

Further, though the officials elected on 25 th May, 2003 requested the court to ratify the elections, the court having ordered the elections in the first place, the court declined to ratify the elections as it evidenced by the order dated 29 th May, 2003.

Finally, it is noted that the current officers have filed KISUMU CMC NO. 504 of 2003 to inv alidate the elections. In light of all the above, I am unable to confirm the names of officers elected on 25 th May, 2003 and await to hear from you the outcome of CMCC NO. 504 of 2003.

Yours faithfully,

C. K. NYIHA (MRS)

SNR. ASST. REGISTRAR OF SOCIETIES KISUMU MUSLIM ASSOCIATION,

P. O. BOX 98,

KISUMU.

CKN/nq

REF: SOC/927

Department of the Registrar General,

P. O. Box 30031,

NAIROBI.

1st July, 2003.

C.B.G. Ouma & Co.,

Advocates,

P. O. Box 2532,

KISUMU.

Dear Sir,

RE: KISUMU MUSLIM ASSOCIATION

I refer to your letter dated 26 th June, 2003 and as per records Held by this office the following are the names of the current

Bona fide officers of the above named society: -

Chairman - Mohammed Haji Issa

V/Chairman - Jaffer A. Dawood

Secretary - Juma Musa Asman

Asst. Secretary - Ali N. Mohamed

Treasurer - Mohamed H. Khamis

Asst. Treasurer - Mohamed H. Eggeh

Yours faithfully,

C. K. NYIHA (MRS)

SNR ASST. REGISTRAR OF SOCIETIES"

The said two letters confirmed that:-

"1). That, the election which took place on 25 th May 2003 was injunctioned by the Court vide Court order dated 23 rd May 2003. "2). the officials elected on 25 th May 2003 tried to ratify the elections but the court declined.

3). She confirms the applican ts and others were still officials of the Association, despite the above confirmation it was the submission of Mr. Onsongo that he filed an objection with the Registrar which she was bound to consider and determine. It is also important that on 29 th May 2 003 when CMCC No. 845 of 2002 was coming up for mention, the current officials requested the court to ratify the elections but did not request the court to ratify the officials elected . The fact that, that the elected officials wanted the court to validat e the election means that in my opinion no proper election took place."

It is essential to appreciate that facts are integral to the making of decision and the validity of a decision usually hinges upon the proper appreciation, comprehension and above all interpretation of the facts to enable the person exercise his discretion properly. The registrar was exercising statutory powers and in doing so must direct herself properly in law and procedure must consider all matters which are relevant and avoid extraneous matters. It has been countered that the Registrar exercised her discretion as per section 17, however I must add procedure she was also bound to consider Section 18, especially when there is a dispute and an objection has been brought to her attention. When on 1st July 2003. When she wrote to Mr. Ouma, she was alive that the election which took place on 25th May 2003 was contested and the officials who were elected were not even sure of their legitimacy, as on 29th May 2003 they sought the interventions of the Court.

"Section 18 (1) of the Registrar is of the opinion that a dispute has occurred among the members or officers of a registered society as a result of which the Registrar is not satisfied as to the identity of the persons, who have been properly constituted as officers, the Registrar may, by order in writing require the Society to produce to him within one month of the service of the order, evidence of the settlement of the dispute and of the pro per appointment of the lawful officers of the society or of the institution of proceedings for the settlement of such dispute." The reason given for the registration and recognition of the new officials was that the application for injunction against them was struck out, However it is apparent that there was no order from the Court permitting the registration of such officials, therefore it was within the Powers of the Registrar to not only consider the injunction but also consider and more so determine the objection which was validly before her jurisdiction for determination and disposal. Since the objection was filed in the first week of July 2003, it was prudent to give the parties at least one month to verify whether the dispute was amicably settled. If the court did not mandate her to register the new official, she was obligated to use her Powers to the best Interest of the Protagonists.

Lord Diplock in Council of Civil Service Unions Vs. Minister for the Civil Service (1985) A.C. 374:

"By illegal ity as a ground for judicial review, I mean that the decision - maker must understand correctly the law that regulates his decision - making Power and give effect to it. Whether he has or not is per excellence, a just liable question to be decided, in th e event of dispute by those persons, the judges by whom the judicial power of the state is exercisable. By Irrationality - is a decision which so outrageous in its defiance of logic or by accepted moral standards that no sensible person who has applied hi s mind to the question to be decided could have it." -----

The High Court has Powers to keep Administrative excess on check and supervise public bodies though Control and Restrain Abuse of Powers, in short judicial reviews empowers the High Court to correct or contain when public bodies like the Registrar of Societies, acts Ultra vires, the law which regulates her powers and discretion. In determining whether the decision of 9th July 2003 by the registrar was proper, in my view the applicant must establish, whether there was an abuse of power, whether the Registrar acted in bad faith and lastly, whether there was a breach of the principles of natural justice.

See Associated Provincial Picture Houses Ltd. Vs. Wednesbury Corporation (1948) IKB 223:

"for instance a person entrusted with a discretion must direct himself properly in law - He must call his own attention to the matters which he is bound to consider, if he does not obey those rules he may truly be said and often is said to be acti ng, unreasonably similarly you may have something so absurd that no sensible person could ever dream that it lay within the powers of the authority."

With respect the Registrar was not only to consider her powers under section 17 but was bound to consider section 18 and 29 of the Societies Act to cloth her decision with some validity, my Assessment is that she aligned herself with one group and failed to observe the principles of natural justice. Besides the unending squabbles, at the court she was bound to direct her mind independently and impartially without taking into consideration extraneous matters which was outside her province.

In my Judgement the Registrar was guilty of consustent disregard for the due process of law and in the end validated an illegal transaction hence greatly contributed to the current wrangling of Kisumu

Muslims.

We would as court always endeavour ensure decisions which are not made fairly and within the confines of the law are subject to the supervisory Powers of the Court, hence certiorari would quash an inferior courts or tribunals, decision which exceeded or acted without jurisdiction, like the Registrar of Societies, whose decision was actuated by bad faith and it would in my opinion be grave lacuna in our judicial system if such a decision is allowed to stay.

"Certiorari will issue to quash a decision already made and will issue if the decision is made without or in excess of jurisdiction or where the rules of natural justice are not complied with or for such like reasons prohibition will forbid the confirmation of proceedings before an inferior tribunal or court in excess of its jurisdiction or in contravention of the laws of the land. It lies not only for excess of jurisdiction or absence of it, but also for a departure from the rules of Natural Justice, Justice P. Waki J. in High Court Misc Civil Application No. 264/97 the Chief Magistrate, Court Mombasa and Bahajj Holding"

In all honestly the decision of the Registrar was incompetent as there was nothing to register, since no proper and legitimate election took place, to me what happened was a bloodless coup which was a direct insult to the dignity and authority of the Court and no sensible Man, can claim legitimacy out of that absolute illegality.

When will this unending squabbles of the Kisumu Muslim Association end. This saga is entering its 3rd year which is greatly prejudicial to the interest of the Muslims in Kisumu. I must say this Unending Squabbles is against the dreams, beliefs values, customs, tradition and ambition of the Muslims and More so the people who made Kisumu Muslim Association what it is today, this is a consistent betrayal of the aspiration of the founders and the Court cannot turn blind eye. The Muslim Umma in Kisumu wants to have a say in how they are governed and they want the relationship between them, the Management and employees to be smooth, reasonable, certain, predictable and to the best of their interest. They want their Management which make no money of their own to be realistic and meaningful than being a leech draining all their blood on litigation and infighting. All the principles that had protected the property, monies and right of employees and confidence of the donors has been eroded and destroyed by hungry and insensitive leaders bent on plunder, pillage division and destruction. Therefore as stated earlier No proper election took place on 25th May 2003 and there was nothing capable of being registered by the Registrar of Societies, having found the prayer for prohibition would dissipate. It is my judgement that the Respondents having obtained an advantage by unlawful Means they cannot be allowed by the Court to retain and maintain that benefit and position. Having given this matter my utmost consideration I am satisfied that serious and grave misdirection was occasioned by the Registrar in registering the officials elected on 25th May 2003, thereby causing confusion, contradiction and uncertainty to Kisumu Muslim Association.

Lastly may say that six suits were filed namely CMCC No. 845 No. SPMCC NO. 504/02, RMCC No. 232/03, HCCC No. 106/03 High Court Civil Appeal 146/03 and Misc. Application 280/03, the subject matter being Kisumu Muslim Association and its Management. In my opinion the Court has greatly contributed to the wrangling by being indecisive. Matters take long time to be decided while Public property is being plundered and destroyed. By allowing this vexatious litigants to file Multiplicity Suits, the court was in essence destroying the authority of the judiciary and galvanizing and instigating rebellion and more so driving people to despair, people loose faith in our judicial system simply because there is no direction and/or decision from the court. By failing to give decision in time and allowing multiple of suits we contribute to the confusion and contradiction between litigants. We must deliver justice immediately the need arises.

The matter of Kisumu Muslim Association reflect adversely on the Rule of Law and proper administration of Justice.

The people, who bequeathed this vast Assets and Monies to Kisumu Muslim Association are watching, the Muslim Umma is watching, the employees are watching, the tenants who occupy the residential houses are watching, our children are watching, the school heads are watching, the Bankers of the

Association are watching, the parents are watching and above all God Almighty is watching, this confusion, contradiction, infighting, stealing, endless litigation, neglect, plunder, Uncertainty, I say that this ought to stop we must open a new chapter of reconciliation and reconstruction otherwise you shall be condemned to the dark pages of history.

I now come to the inescapable conclusion that the election which took place on 25th May 2003 was a nullity and nothing useful can be derived from an act which was void abinitio. The sum total of all the above of that the decision of the Registrar dated 9th July 2003 which recognized and registered the officials and trustees elected on 25th May 2003 as hereby removed into this Court and is quashed. Prayer one of the Notice of Motion is allowed, with no orders to as to costs.

What would be the position of the parties. I am conscious that the Court can only determine on the issues submitted before it for decision. I cannot by any imagination close my eyes to the evident acrimony between the parties to the saga, which a threat to peace and well being of other stake holders. In my considered view this where the inherent Powers of the Court should be exercised, to makes orders that are necessary and expedient for the ends of Justice. This will also ensure no party abuses the process of the Court. I am also quite aware that I am exercising supervisory Jurisdiction, which enables, me to supervise the conduct and decisions of Public bodies, therefore. I order as hereunder:-

- 1). That I do restrain both the officials and trustees purportedly election on 25.5.2003 and former officials or trustees from interfering with the running, control or management of Kisumu Muslim Secondary School, Alumni integrated Academy, and Muslim Primary School until new officials are properly elected:
- 2). I order fresh election be organized and conducted within 30 days from the date hereof, to be supervised by the Secretary and/or chairman of Supkem National Office.
- 3). That I do restrain both the officials and trustees purportedly elected on 25th May 2003 and former officials and trustees from interfering with any of the Mosques which the Association manages within Kisumu Municipality until election are held and new officials elected.
- 4) An order restraining both the officials and trustees purportedly elected on 25th May 2003 and former officials or trustee whether by themselves agents servants and/or employees from interfering with the association's property whether by collection of rent or otherwise until new officials are properly elected and registered
- 5). That, I do restrain and/or freeze the operations of:
  - 1) Accounts No. 22114, at Habib Bank Kisumu Branch.
  - 2) Accounts No. 211-4 Muslim Secondary School, Habib Bank Kisumu Branch. 3) A/C No. 213 - 01 - Kisumu Muslim Association.
  - 4) 230642027 at Kenya Commercial Bank, Kisumu Branch and/or any other Account held by any other Bank, in the name and style of Kisumu Muslim Association Until new officials are properly elected and registered.
  - 5) All other suits and/or application pending between the parties in Kisumu High Court and the Chief Magistrate's Court is hereby stayed pending further orders from the High Court and pending the determination of the election.

Those will be the orders of this Court, therefore the dynasty is over and the coup is crushed.

**Delivered and Dated at Kisumu This 12th Day of February 2004.**

**MOHAMMED WARSAME,**

**AG. JUDGE**

**In the presence of :**

**Mr. Onyango for holding brief for Mr. Onsongo for the Applicant.**

**Mr. Odunga for interested party.**

**Mr. Onyango: A request a copy of the ruling.**

**Court:**

**A copy of the Ruling to be supplied at own costs.**

**MOHAMMED WARSAME**

**AG. JUDGE**