

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MOMBASA

CIVIL SUIT NO. 266 OF 2004

1. SALIM H. SUMRA

2. ISMAIL MOHAMED

3. MOHAMED OMAR Suing as Officials of Kenya

Football Federation Coast Branch PLAINTIFFS

- Versus -

**KIPCHOGE KEINO 1ST
DEFENDANT**

**SILVESTER ASHIOYA 2ND
DEFENDANT**

**CHARLES NYABERI 3RD
DEFENDANT**

**KADIR FARAH 4TH
DEFENDANT**

R U L I N G

The plaintiffs are officials of the Kenya Football Federation Coast Branch. They have sued the first and second defendants as Chairman and Secretary respectively of the FIFA/KFF Normalisation Committee (the Committee) which was formed vide an agreement between FIFA, the world soccer governing body and, according to the plaintiffs, the former officials of the Kenya Football Federation, National Office. The third and fourth defendants are the Returning Officers appointed by the Committee to conduct the elections of the Kenya Football Federation South Coast Branch and Kenya Football Federation North Coast Branch respectively.

The plaintiffs' complaint, as stated in their plaint, is that having conducted the Branch elections on 1st February 2004 the Committee has no authority to order fresh elections in the Branch and that they have raised a complaint in that regard under the KFF Constitution and the matter has been referred to arbitration. They therefore seek an injunction to restrain the defendants from conducting branch elections scheduled for the 4th December 2004 until the arbitral process is complete. In the affidavit in support of the plaintiffs' application for injunction the legality of the Committee is challenged on the ground that it was appointed by "strangers and that such Committee [is] not provided for in the KFF Constitution." Counsel for the plaintiff also argued the KFF Constitution has no provision for affiliation of the Kenya Football Federation to FIFA.

My understanding of the plaintiffs' complaint is that FIFA has no powers to control football activities in Kenya. If that be so one then wonders how FIFA came to ban Kenya from participating in the world cup qualifying matches. Further more the Applicants have not exhibited a copy of the FIFA Constitution or Rules. In the absence of that I am not in a position to say that ex facie the appointment of the Committee is illegal and grant an injunction restraining it from carrying out its mandate. I therefore decline to grant any ex-parte orders at this stage before hearing the defendants and order that the application should be

served for inter-parte hearing within 14 days.

DATED and delivered this 2nd day of December 2004.

D.K. Maraga

Ag. JUDGE