



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI
IN THE CONSTITUTIONAL AND HUMAN RIGHTS DIVISION
PETITION NUMBER E425 OF 2020
AS CONSOLIDATED WITH PETITION NO. E014 OF 2021

BETWEEN

HON. MIKE SONKO MBUVI GEDION KIOKO..... 1ST PETITIONER
OKIYA OMTATAH OKOITIL..... 2ND PETITIONER

VERSUS

THE CLERK, NAIROBI CITY COUNTY ASSEMBLY.....1ST RESPONDENT
THE SPEAKER, NAIROBI CITY COUNTY ASSEMBLY..... 2ND RESPONDENT
THE NAIROBI CITY COUNTY ASSEMBLY.....3RD RESPONDENT
THE CLERK OF THE SENATE.....4TH RESPONDENT
THE SPEAKER OF THE SENATE OF KENYA.....5TH RESPONDENT
THE SENATE OF KENYA.....6TH RESPONDENT
HON. ATTORNEY GENERAL.....7TH RESPONDENT
THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION....8TH RESPONDENT
THE ASSUMPTION OF THE OFFICE OF THE COUNTY, GOVERNOR, COMMITTEE,
NAIROBI CITY COUNTY..... 9TH RESPONDENT
THE AG. GOVERNOR, NAIROBI CITY COUNTY.....10TH RESPONDENT

R U L I N G

On 18th March, 2021, this court gave very clear directions and timelines regarding the filing of pleadings and submissions by the parties herein. According to the said directions, the Respondents were granted 14 days to file their respective responses on or before 2nd April, 2021.

The Petitioners were granted 7 days to file and serve written submission and any supplementary affidavits and that was to be done on or before 10th April, 2021. The Respondents were to file and serve their submissions on or before 19th April, 2021, the court listed the case for hearing today, 4th May, 2021, for the highlighting of submission.

We are, however, appalled and perplexed that today, being the hearing date, the parties have indicated that the submissions have either not been filed or were filed too late in the day thus precipitating requests for adjournment by the respondents to enable them file their submissions.

We have gone through the record and noted that the amended petition was filed on 21st December, 2020 clearly therefore, the contention by the Respondents that they were served with the amended petition last month cannot be correct.

Even assuming that the Petitioners had on 18th March, 2021 indicated that they had already filed and served their submissions, they had a duty to inform the Respondents, at least as at 10th April, 2021 that they did not intend to file any additional submissions or affidavits. The failure by the Petitioners to communicate their position to the Respondents created the confusion that the parties now find themselves in.

Moreover, as regards the 2nd Petitioner, it is apparent that he filed his submissions on 25th April, 2021 which was clearly outside the timelines set by the court. For the above reasons, we find that it will only be just and fair to grant the Respondent's an adjournment to enable them file their submissions.

Consequently, we allow the Respondents application for adjournment and direct that 1st Petitioner to serve Mr. Kokebe for the 2nd Respondent, with their submissions before close of business today. The Respondents to file their submission on or before 12th May, 2021.

The Petitioners will have 3 days to make their rejoinder, if need be, which rejoinder shall be filed and served before 11 a.m. on 17th May, 2021.

Hearing on 18th May, 2021 at 10 a.m.

Turning to the issue of contempt of court orders that was raised by Dr. Khaminwa, we find that there is no substantive application before this court to that effect. Moreover, Mr. Nyamu, the lead counsel for the 1st Petitioner indicated that the Petitioner would wish to proceed with the main petition. We, therefore, need not say more about the issue of contempt.

S J CHITEMBWE W KORIR W OKWANY

JUDGE JUDGE JUDGE

4/5/2021 4/5/2021 4/5/2021

Mr. Kinyanjui: We pray for a copy of the order. This enable us serve each party.

Mr. Kokebe: We do appreciate the timelines given by the court.

Mr. Nyamudi: there are to issues I wish to raise. The Petitioner to serve original and further submissions on all matters. Secondly, on 18th, I will be holding the impeachment of Wajir Governor before the Senate.

Mr. Nyamu: There is no notice from the Senate shown.

S J CHITEMBWE

JUDGE

4/5/2021

Court: By further orders, the Petitioner to serve all the Respondents with hard copies of the original submissions and any further submissions by 4.30 p.m. today. Mr. Nyamu to serve list of authorities today and the hard copies of authorities by Thursday, 6th and 7th Mid-day. The Petitioners and Respondents to provide the court with three sets of hard copies of their respective submissions and the same to be with the registry by 17th May, 2021.

S J CHITEMBWE

JUDGE

4/5/2021