



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MERU

MISC. APPLICATION NO. 8 OF 2019

MONICA KAGURI NTURITU.....1ST APPLICANT

FRIDAH KARIMI ERASTUS.....2ND APPLICANT

JOHN MUTEMBEI KIRERA.....3RD APPLICANT

VERSUS

REGISTRAR OF SOCIETIES KENYA.....1ST RESPONDENT

DEPUTY COMMISSIONER BUURI EAST.....2ND RESPONDENT

THE HON. ATTORNEY GENERAL.....3RD RESPONDENT

AND

JOHN MBAABU M'MURITHI.....1ST INTERESTED PARTY

ZACHAEUS KARUNTIMI.....2ND INTERESTED PARTY

RULING

1. From the history of this dispute, the Association herein has seen twists and turns orchestrated by its own members particularly on the leadership of the Association. The applicants filed this suit on 30/1/2019 seeking injunction orders against the respondent to prohibit them from chairing, overseeing or conducting a general election for office bearers of Kamulu Forest Association. In order to inject life to the said association this court ordered that Monica Kaguri, Fridah Karimi Erastus, John Mbaabu and Zachaeus Karuntimi be interim officials and conduct elections of the society. These persons had been interim officials.

2. However, more disputes among members emerged. The association was unable to conduct elections to elect new officials. Consequently, by an order dated 25/7/2019 this court instructed that the register prepared by the officials of the society dated 16/5/2019 be lodged and registered with the registrar of societies. Any further dispute on the register of members was to be resolved by the Registrar. The registrar was also tasked to file a report and on its filing oversee the elections of the society.

3. The report by the Registrar of Societies dated 28/10/2019 indicated that the register recorded only 1786 members omitting 2090 members whose list was received on 15/8/2019. The registrar added the omitted members to create a new comprehensive list of the members of the society and urged this court to adopt the new register in readiness for election.

4. The report by the registrar is the subject of this ruling. The applicants in their submissions have argued that the register dated 16/5/2019 was prepared after 1,786 members renewed their membership following due given for that purpose. They argued that the 1st interested party declined to renew his membership which resulted in his name not appearing in the register submitted to the registrar.

5. The interested parties also submitted. The castigated the two applicants for acting alone without consulting them as interim officials in the preparation of members' register. They stated that 2090 members were omitted yet the association is meant to serve the whole community. They supported the report by the registrar to include all members in the register for purposes of elections.

6. **Section 18** of the Societies Act provides the following;

Disputes as to officers

(1)If 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 of the society, 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 proper appointment of the lawful officers of the society or of the institution of proceedings for the settlement of such dispute.

(2)If an order under subsection (1) of this section is not complied with to the satisfaction of the Registrar within the period of one month or any longer period which the Registrar may allow, the Registrar may cancel the registration of the society.

(3)A society aggrieved by the cancellation of its registration under subsection (2) may appeal to the High Court within thirty days of such cancellation.

7. **Section 18** mandates the registrar of Societies to take measures to resolve disputes relating to the officials of the society or members. These proceedings revolve around the leadership of the society and by order of the court the Registrar was mandated to resolve the issue of officials of the society through elections. In addition, under section 25 of the Societies Act: -

Every registered society shall keep a register of its members in such form as the Registrar may specify or as may be prescribed, and shall cause to be entered therein the name and address of each member, the date of his admission to membership and the date on which he ceases to be a member.

8. The overall impression of the law show that the registrar is within his mandate to ensure appropriate register of members is kept for the society and also to oversee the elections of the society.

9. The interim officials seem to be divided right in the middle and each faction is acting alone without consulting the other. These squabbles are to the detriment of the society. It be noted that the mandate of interim officials is normally limited and they are expected to act in the best interest of rather than ruin the association. These interim officials have failed to live to this expectation. The Registrar should therefore come in and act in the best interest of the association and the law. Accordingly, I direct the registrar to compile a comprehensive register of members as proposed by the registrar in the report filed herein and include all members. Inclusivity is important here. The Registrar shall then hold elections within 90 days of today and register the officials elected in the election as the officers of the society. A report of these undertakings shall be filed in court within 21 days of the election. It is so ordered.

Dated, signed and delivered in open court this 5th day of February, 2020

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F.GIKONYO

JUDGE

IN PRESENCE OF

Abubakar for M/s Soy for appellants

M/s Nelima for Gikunda for interested parties.

A.G –Absent

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F.GIKONYO

JUDGE