



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT HOMA BAY

THE ELECTIONS ACT, 2011

ELECTION PETITION NO.3 OF 2013

IN THE MATTER OF ELECTION FOR THE GOVERNOR OF MIGORI COUNTY

EDWARD AKONG'O OYUGI OPETITIONER

VERSUS

THE INDEPENDENT ELECTORAL

BOUNDARIES COMMISSION 1ST RESPONDENT

JAIRUS OBAGA 2ND RESPONDENT

ZACHARY OKOTH OBADO 3RD RESPONDENT

AND

IN THE MATTER OF TAXATION

BETWEEN

ZACHARY OKOTH OBADO 3RD RESPONDENT/APPLICANT

AND

EDWARD AKONG'O OYUGI PETITIONER/RESPONDENT

RULING

1. This matter has been pending in court since 05/04/2016 when Majanja J gave directions to parties to file written submissions in relation to the application dated 26th February 2016. However the ruling was deferred because the court was informed that the respondent's counsel had not been served.
2. Thereafter an application dated 27/05/2016 was filed and set for direction on 13/07/2016 but it was not heard as the court was of the view that it would be premature to hear the matter on a day which had been set for mention.
3. Thereafter the court was informed that parties were awaiting the outcome of a matter filed before the Supreme Court – However to date very little progress has been made in the Supreme Court as the

information given by Mr. Makolwal is that the Supreme Court has not even given a date for ruling.

4. It is conceded that there are no stay orders issued by the Supreme Court with regard to this matter and this court had only indulged the parties on good faith and in the honest belief that since the outcome of the matter before the Supreme Court would have a bearing on the present case, it would be prudent to abide the outcome of the superior court's findings.

5. Miss Mugenya for the objector has urged the court to direct that the matter herein be heard and disposed of as they had even filed submissions in 2016 and the ruling which was due for delivery on 31/05/2016 ought to be delivered.

6. I think the court has more than over indulged the respondent and since there is no signal that the Supreme Court will render its decision soon, then this matter cannot have an endless life span. As pointed out earlier, the ruling due on 31/05/2016 aboredt upon filing of application dated 27/05/2016 and this means what must first be dealt with is that application.

7. I therefore direct that the application dated 27/05/2016 be disposed off by way of written submissions as follows:-

a) The applicant do file and serve written submissions within 7 days from today.

b) The Respondent files and serves written response within 7 days of service.

c) The applicant is at liberty to file and serve a written reply within 7 days of service.

d) Mention on 28/03/2017 for taking ruling date.

8. This order be served on parties and counsel.

Delivered and dated on this 7th day of **March, 2017** at Homa Bay

H.A. OMONDI, JUDGE

07.03.2017

Mr. Ochieng holding brief for Sagana for Objector

N/A for Respondent