



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT MOMBASA**  
**PETITION NO. 19 OF 2015**

IN THE MATTER OF: THE CONTRAVENTION OF FUNDAMENTAL RIGHTS AND FREEDOMS UNDER ARTICLES 2, 3, 10, 19, 20, 21, 22, 23, 24, 25, 28, 29, 31, 43, 47, 48, 49, 50, 238, 239, 243, 244 AND 245 OF THE CONSTITUTION OF KENYA, 2010

AND

IN THE MATTER OF: CONTRAVENTION OF SECTION 3 OF THE PREVENTION OF TERRORISM ACT

BETWEEN

1. MUSLIMS FOR HUMAN RIGHTS (MUHURI)  
2. HAKI AFRICA..... PETITIONERS

VERSUS

1. THE INSPECTOR GENERAL OF POLICE  
2. THE CABINET SECRETARY MINISTRY OF INTERIOR AND  
COORDINATION OF NATIONAL GOVERNMENT  
3. THE HON. ATTORNEY GENERAL  
4. GULF AFRICAN BANK LIMITED  
5. NIC BANK LIMITED.....RESPONDENTS

**RULING**

1. I have listened carefully to the application and reasons for adjournment by Counsel for the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> Respondents.
2. I accept as correct the Constitutional proposition that Petitions of this kind in particular, concerning violation of fundamental human rights should be determined expeditiously. That is the

injunction of Article 159 of the Constitution of Kenya 2010 which I call the Constitution of the Republic. I do not normally say these things, but I take exception to the suggestion, that the Court is cooperating with the 1<sup>st</sup> – 4<sup>th</sup> Respondents

3. In my Ruling of July 2015, I set out strict time-lines and within which I expected Counsel for the Petitioners the Respondents and amici curiae orders to file and serve their responses. The Petitioners failed to do so, it is not therefore open to them or any other party to say that the court is cooperating with the Respondents and in particular, the 1<sup>st</sup> – 4<sup>th</sup> Respondents. Any party has liberty to apply for adjournment, and upon proper consideration of the grounds for and against, the court may allow such application for adjournment.

4. In this case there are grounds for allowing the Application for adjournment. The Petitioners failed to serve the 1<sup>st</sup> -4<sup>th</sup> Respondents with their submissions within the timelines set by the court on 23/07/2015. These Respondents are therefore entitled to the 14 days within which to file their submissions. The rule is that hear the party. Do not shut out any one from the temple of justice.

5. For those reasons, I grant adjournment to allow the 1<sup>st</sup> – 4<sup>th</sup> Respondents time to file and serve their written submissions.

6. As to the oral application made by Mr. Kamau on behalf of Paul Muite Senior Counsel for the Petitioners that the Petitioners Accounts be unfrozen, I declined to do so before I decline to do so now. The reason is simple. That is the single most important prayer sought in the Petition. It would be premature to grant that order without exhausting all arguments for and against it.

7. In summary, I grant the 1<sup>st</sup> – 4<sup>th</sup> Respondents 14 days from today to file and serve their submission. I grant the Respondents and amici curiae leave to file supplementary submissions and serve at least three days before the hearing.

8. The Hearing of the Petition is adjourned to 2/10/2015.

**Dated, Signed and Delivered in Mombasa this 4<sup>th</sup> day of September, 2015.**

**M. J. ANYARA EMUKULE**

**JUDGE**

In the presence of:

Counsel listed in the coram