



REPUBLIC OF KENYA
IN THE CHIEF MAGISTRATE'S COURT
AT MALINDI
ELECTION PETITION NO. 5 OF 2017
(KAKUYUNI WARD)

IN THE MATTER OF THE ELECTIONS ACT, 2011

AND

SALIM MWENI ATHMAN.....PETITIONER

VERSUS

INDEPENDENT ELECTORAL

& BOUNDARIES COMMISSION (I.E.B.C).....1ST RESPONDENT

SUDI MASHA.....2ND RESPONDENT

MRAMBA NIXON CHARO.....3RD RESPONDENT

RULING

Security for Costs, Disclosure of Results, Affidavits – Summary

The 1st & 2nd Respondents and the 3rd respondents have filed a Notice of Motion dated 24th October, 2017 and 10th November respectively brought under Article 87(1) of the Constitution, Rule 4(c) 8 and 12 of the Election Petition Rules and Section 4 of the Oaths & Statutory Declarations Act seeking the following orders in summary :

1. The affidavits filed in support of the petition be expunged from the record
2. The striking out / dismissal of the petition
3. Costs of the petition and application be awarded in their favor

The applications are based on the grounds , *inter alia* , that the petition having being filed on 9th September, 2017 the petitioner failed to comply with Section 78(2) of the Election Act and Rule 13 of the Election Petition Rules 2017 on depositing the security for costs within the required period of 10(ten)days.

- i. That the failure to deposit the said security renders the petition incurably defective and court no longer has jurisdiction to hear and determine it.
- ii. That the results of the election are neither in the petition nor the affidavit in support of the petition.
- iii. The affidavit in support of the petition does not specify the parties in the heading or what petitions they are referring to in contravention of the Oaths & Statutory Declarations Act. .

It is on record that consent was entered into by all the parties and the petitioner was granted leave to file an application for extension of time in which to deposit security. It was also agreed upon that the intended application would be canvassed at noon on 15.11.2017. There is no application filed to that effect as per the court file.

The applicants made oral submissions to urge their application.

Three issues arise:

- *Whether or not failure to deposit security for costs warrants a striking out of the petition;*
- *Whether or not the petitioner failed to disclose the results in accordance with requirements of the law and the effect thereof;*
- *Whether or not the affidavit in issue offends the Oaths & Statutory Declarations Act.*

The Law and Analysis

Section 78 of the Elections Act provides:

- (1) A petitioner shall deposit security for the payment of costs that may become payable by the petitioner not more than ten days after the presentation of a petition under this Part.**
- (2) A person who presents a petition to challenge an election shall deposit—**
 - (a) one million shillings, in the case of a petition against a presidential candidate;**
 - (b) five hundred thousand shillings, in the case of a petition against a member of Parliament or a county governor; or**
 - (c) one hundred thousand shillings, in the case of a petition against a member of a county assembly.**

Rule 13 of the Election Petition Rules 2017 presumably of the Election (Parliamentary and County Elections) Petition Rules 2017 which provides:

- (1) Within ten days of the filing of a petition, a petitioner shall deposit security for the payment of costs in compliance with section 78 (2) (b) and (c) of the Act.**
- (2) The security for costs deposited under sub-rule (1) shall**
 - (a) be paid to the Registrar;**
 - (b) be for the payment of costs, charges or expenses payable by the petitioner; and**
 - (c) subject to the directions of an election court, be vested in, and drawn upon from time to time by, the Registrar for the purposes for which security is required.**
- (3) The Registrar shall-**

(a) issue a receipt for the deposit under this rule;

(b) shall file the duplicate of the receipt issued under paragraph (a) in a record kept by him or her;

(c) keep a record of deposits in which shall be entered from time to time the amount of a deposit and the petition to which the deposit relates;

(d) allow any person concerned with the petition to examine the record of deposits.

The purpose of payment of security for costs was crystallised in *Esposito Franco v Amason Kingi Jeffah & 2 others* [2010] eKLR that it was intended to eliminate vexatious litigants.

There are two schools of thoughts on the issue of depositing security for costs. One school propounds that failure to pay the prescribed amount within the prescribed time renders a fatal blow to the petition. In other words the prescribed time is an essential prerequisite. Authorities in support of this point are:

1. *Said Buya Hiribae v Hassan Dukicha Abdi & 2 Others*, Mombasa Election Petition No. 7 of 2013;

2. *Kumbatha Naomi Cidi v County Returning Officer, Kilifi & 3 Others*, Election Petition (Malindi) No. 13 of 2013;

3. *Simon Kiprop Sang v Zakayo K. Cheruyot & 2 Others*, Election Petition (Nairobi) No. 1 of 2013)

And recently:

4. *Evans Nyambaso Zedekiah & another v Independent Electoral and Boundaries Commission & 2 others* [2013] eKLR where the court held as follows:

“[96] I have also reached the conclusion that the security by deposit of money was made outside the stipulated time and having made no application for extension of time for doing so, this court has no jurisdiction to extend the time for making of the deposit or for validating the deposit. On this ground and for the other reasons found in the body of this ruling, the petition herein is liable to be struck out and I so strike it out.”

Also see *Milton Kimani Waitinga v IEBC and 2 Others* Election Petition No. 2 of 2017 (Kiambu)

Robert Mwangi Kariuki v IEBC and 2 Others Election Petition No. 1 of 2017 (Nyeri) where similar views were expressed.

The other school of thought is that the failure to do so is not fatal and court may exercise its discretion. See:

1. *Fatuma Zainabu Mohamed v Ghati Dennitah & 10 others*, Kisii Election Petition No. 6 of 2013;

2. *Charles Maywa Chedotum & another v IEBC & 2 others*, (Kitale) Election Petition No. 11 of 2013;

3. *Charles Ong’ondo Were v Joseph Oyugi Magwanga & 3 others*, (Homa Bay) Election Petition No. 1 of 2103.

And recently

4. *Samwel Kazungu Kambi & another v Nelly Ilongo County Returning Officer, Kilifi County & 3*

others (Malindi) [2017] eKLR .

In both cases it was held that if there is sufficient cause discretion may be exercised. The court rendered itself thus:

“[25.] Sub-sections (2) and (3) of Section 96 leaves no doubt as to the fact that unless a deposit of security for costs is made within ten days from the date of presenting the referendum petition, the petition shall be struck out. Unlike Section 96(2) and (3) which commands the striking out of a referendum petition if no security for costs is deposited, Section 78(3) puts an election petition in comatose if no security for costs is deposited. My understanding is that an election petition can be revived, with the leave of the court, upon payment of the security deposit so long as the period for hearing the petition has not lapsed. Nothing would have been easier for Parliament than to use the language used in Section 96 in Section 78 if the intention was to completely take away the discretion of an election court to enlarge time. I therefore agree with Edward M. Muriithi, J that if sufficient cause is shown, an election court has jurisdiction to extend the time for depositing security for costs in an election petition.”

Also see ***Tom Onyango Agimba v IEBC and 2 Others*** Election Petition No. 1 of 2017 Milimani for a similar view.

Whether or not the petitioner failed to disclose the results in accordance with requirements of the law and the effect thereof?

Premised on the grounds that the petition and affidavit as sworn contravene Article 87 of the Constitution by failing to comply with the Rules established under the Election (Parliamentary and County Elections) Petition Rules 2017 . In particular Rule 8 (1) (c) and (d) for failure to declare the results of the elections, Rule 12(2) (c) and (d) also for failure to declare the results of the elections and the date of declaration of the results.

Finally, the affidavit in support of the petition is incompetent.

The application is supported by the affidavit of the 3rd Respondent which elaborates that it is a mandatory requirement to disclose the results in an election petition that a competent affidavit in support of the election petition ought to contain the particulars set out in the afore stated Rule 12 as a mandatory requirement. That the mandatory requirements go to the root of the election petition.

There are two schools of thoughts on this point too. On one hand there is a holding that it renders the petition incurably defective. I for purposes of this ruling call it the strict school of thought. On the other hand that it does not I will call it the liberal school of thought.

The Strict School :

1. **Hassan Ali Joho & another v Suleiman Said Shahbal & 2 others** [2014] eKLR (Court of Appeal)

2. **John Mututho v Jane Kihara & others** [2008] 1KLR 10 (Court of Appeal)

3. **Evans Nyambaso Zedekiah & another v Independent Electoral and Boundaries Commission & 2 others** [2013] eKLR

4. **Jimmy Mkala Kazungu v IEBC & 2 others** [2017] eKLR where the court held:

“17. I have carefully looked at the Petition. I do note that the same does not state the date when the election in dispute was conducted. It does not state the results of the election and it does not also state the manner in which the results were declared. I further note that there are other matters stipulated in Rule 8(1) that the Petition fails to state. These include the name and address of the

Petitioner as well as the date of the declaration of the results of the election. Also omitted from the body of the Petition is the name and address of the advocate for the Petitioner being the address for service.

18. The requirements in Rule 8(1) of the Election Petition Rules are couched in mandatory terms. It is noteworthy that the same requirements are replicated in Rule 12 (2) of the Election Petition Rules which requires that the affidavit in support of a petition shall state the very same things that are to be stated in a petition. The Petitioner submits that the omitted information is contained in the Supporting Affidavit and has invited the Court to deem the Supporting Affidavit as part of the Petition. To my mind, the requirement to state the listed matters applies to both the Petition and the Affidavit. It is not a question of 'either or' but a matter of 'both and'. The listed matters must be in both the Petition and the Supporting Affidavit. The Petitioner does not have the liberty to choose to have the listed matters in either the Petition or the Supporting Affidavit."

5. **Mbaraka Issa Kombo v Independent Electoral and Boundaries Commission & 3 others** [2017] eKLR

"36. It is not enough that the petitioner said who won the elections by how many votes. The duty imposed upon him by the law would only be discharged if he set out and tabulated in the petition the complete result of the elections as declared by the Returning Officer. That would entail stating what each of the six(6) candidates garnered at the election so as to meet the requirement of the rule which was interpreted by the Supreme Court in Joho's Case(supra) to mean a 'quantitate and numerical composition'. I understand that to mean an entire breakdown of what the outcome was for every candidate participating at such an election. It is not enough to state that so and so won with so many votes and rest with your full stop.

37. Most importantly, even if there would be excused non-disclosure of full results, the date of declaration must be there for it is the trigger for computation of time so that the court establishes when time to file a petition would start to run and end."

The Liberal School:

1. **William Kinyanyi Onyango v Independent Electoral and Boundaries Commission & 2 others** [2013] eKLR

2. **Washington Jakoyo Midiwo v Independent Electoral and Boundaries Commission & 2 others** [2017] eKLR, the Court was guided by the Supreme Court Case **Raila Odinga & Others V. Independent Electoral and Boundaries Commission & 3 Others** [2013] eKLR to caution itself that Article 159(2)(d) of the Constitution cannot be a panacea of all ills . It was also guided by the holding of Ouko J.A in **Nicholas Kiptoo Arap Korir Salat V Independent Electoral and Boundaries Commission & 6 Others** [2013] eKLR and held:

"Each case must be decided on its own facts and circumstances. It is my finding that the omission to state the results in this Petition and in the supporting affidavit do not call for its striking out. In my view the omission does not go to the root of the proceedings. "

3. **Samuel Kazungu Kambi & another v Independent Electoral & Boundaries Commission & 3 others** [2017] eKLR it was held:

"44. I come with the third view. In my view both schools of thought are correct to some extent. The determinant factor is the extent of compliance with the rules as gleaned from the facts of each case. In my view the decisions of **Ismail Suleiman** and others (supra) and **Evans Nyambaso Zedekiah and another** (supra) were most probably arrived at based on the fact that the election petitions in those matters were hopelessly inadequate that a hearing could not have been sustained on such pleadings.

On the other hand, G.K. Kimondo, J in the cited case of **William Kinyanyi Onyango** had recourse to

Rule 21 of the then prevailing Elections Petitions Rules which required the Independent Electoral and Boundaries Commission to file results in court once a petition was filed. I suspect that rule is no longer”

In the present case the relief sought in the petition reads that;

“A declaration that the Member of County Assembly elections held 8/8/2017 was not conducted in accordance with the Constitution and the law rendering the results null and void”.

In the affidavit of the petitioner paragraph 17 reads

“That unless the elections held on 8/8/17 and the outcome of the declaring Nickson Mramba as the winner are nullified and set aside and a fresh election ordered, I stand to suffer irreparably and my electorate voice stifled for the next five years”

Clearly the date of announcement of the election is missing totally from the petition and affidavit. Further, the petitioner’s affidavit does not bear any annexures indicative of the date of announcement of results or details thereof. Also missing is the **votes cast, votes spoilt, and those garnered by each candidate** are not included. Not even the number of votes that the petitioner obtained is included not even that of the winner can be found in the affidavit and petition.

Whether or not the affidavit in issue offends the Oaths & Statutory Declarations Act.

The 1st & 2nd Respondent referred to **Section 4** of the Oaths & Statutory Declarations Act as the legal basis for their point. It provides that:

(1) A commissioner for oaths may, by virtue of his commission, in any part of Kenya, administer any oath or take any affidavit for the purpose of any court or matter in Kenya, including matters ecclesiastical and matters relating to the registration of any instrument, whether under an Act or otherwise, and take any bail or recognizance in or for the purpose of any civil proceeding in the High Court or any subordinate court:

Provided that a commissioner for oaths shall not exercise any of the powers given by this section in any proceeding or matter in which he is the advocate for any of the parties to the proceeding or concerned in the matter, or clerk to any such advocate, or in which he is interested

(2)A commissioner for oaths shall, in the exercise of any of the powers mentioned in subsection (1), be entitled to charge and be paid such fees as may be authorized by any rules of court for the time being.

This provision of the law does not have a bearing in the respondents' allegations. However as per the record, the affidavits do not bear a similar title as the petition nor do they reference the election in issue. The court in **Ismail Suleman & 9 Others V Returning Officer Isiolo County Independent Electoral and Boundaries Commission & 4 Others** [2013] eKLR held that “The affidavits have no reference to the petition before me and are all expunged from the court record.”

The determination

On all three issues singled out for determination there is no there are different schools of thought that have emerged from the decisions of the superior courts which are so diametrically opposed. Thus, this being a subordinate court it is my duty to follow precedent. The issues and the law are similar. The contexts are election petitions, and the *ratio decidendi* in each of the above cases however dichotomous are not distinguishable from the case before me. It therefore behooves me to align myself with a specific school of thought on each of the issues before me for determination. It is not in my place to critique that school of thought I choose not to be bound by, be it the strict, liberal or the third view. Like Korir J correctly stated the schools of thought now including the Third View are correct within the contexts to an

extent. Even the Court of Appeal is divided on these issues (see the *Nick Salat Case* with a majority and dissenting opinion).

I will not attempt to unpack how each school sits within its context. Indeed each case is to be decided on its own merits. However in the above cases I did not find any instance where a judge has actually declared a petition before it is hopelessly defective and dismissed it, to enable this court to compare the issues before it with that case. None was brought to my attention in the submissions filed, this is not to say that no such case exists probably there could be limitations abounding.

What I am certain about is that the issues before me in this case are similar to the issues which have been canvassed before the superior courts in cases cited above. Almost all the authorities cited are post 2010 cases meaning that they were decided within the new constitutional dispensation and the new judicial order. I desisted from placing too much reliance on the pre-2010 authorities in view of the constitutional context within which they were decided. However I am aware that the substantive normative order has not changed much in spite of the shift in the constitutional order. Jurisprudence in this area as evidenced in the recent dichotomous decisions robustly developing and with time the issues will settle and clarity will emerge on this issue as the country grapples with more election petitions and lessons get learnt. For the subordinates courts ours is not to make law but follow the laws already made by the superior courts.

On Affidavits

I align myself with the holding in the case of *Samuel Kazungu Kambi & another v Independent Electoral & Boundaries Commission & 3 others* [2017] eKLR wherein Korir J did not find merit in an application to expunge from record affidavits fashioned in a similar manner stating that Rule 12 had no requirement that the affidavit bear a similar heading as the petition.

On non-compliance with Rule 8(1) and 12(and the consequences thereof:

I find no justification to depart from the three schools of thought, I am persuaded to align myself with the strict school of thought. I am very much alive to the caution issued by the learned judges in the case of *Raila Odinga and 5 Others v IEBC 2013* eKLR not to view article 159 (2) (d) as a panacea for all procedural technicalities.

With utmost respect to the liberal school of thought I am of the considered view that election petitions are special cases with specific timelines. Because the timelines are so strict pleadings are required to be a clear and as accurate as possible with little room for allowing petty errors that could lead to lengthening the time taken to determine these cases. That is why the rules are couched in strict and mandatory times.

The petitions occupy a very special place in the diaries of judicial officers and more so other ordinary cases are being pushed almost to the back banner to allow for petitions to be heard and determined more expeditiously than the other cases. Room for amendments and evidence that will eat up on this speed is therefore limited as compared to other ordinary cases. I am guided by the superior courts juxtaposing the uniqueness of election petitions. The Supreme Court of India expressed a similar view in *Jyoti Basu & Others v. Debi Ghosal & Others* [1982] AIR 983; [1982] SCR (3) 318, and this is one of the decisions that was cited with approval in the case of *Moses Masika Wetangula vs. Musikari Nazi Kombo & 2 Others* [2015] eKLR. In that case, the Supreme Court of India held that:

"An Election petition is not an action at Common Law, nor in equity. It is a statutory proceeding to which neither the Common Law nor the principles of Equity apply but only those rules which the statute makes and applies. It is a special jurisdiction, and a special jurisdiction has always to be exercised in accordance with the statute creating it...in such matters, as those, relating to the trial of election disputes, is what the statute lays down. In the trial of election disputes, the Court is put in a straight jacket."

Pleadings like the current one which do not even bear the date of announcement of the election or any information on the number of vote is a grave violation of the statute and its attendant rules. It must be

noted that yet all the information required to be pleaded in the petition was available immediately the announcement was made and also immediately the gazette notice was issued. The affidavit of a petitioner which does not have the information as is missing from the petition and even has no annexure that relate to the content of the rule requirement even if this court was to go by the liberal view it could not convert an affidavit into a pleading. Neither would it offer a justification sufficient to warrant the court to accept the explanation, but again no explanation has been offered.

I have seen the annexures in the other people's affidavit. But this petition is brought by the petitioner yet he fails to annex very critical documents even if this court was to stretch the reasoning of the liberal view and allow the petition to be heard it would not be able to convert the affidavit into a pleading assuming that the deponents will testify. What if they don't and what if they do not testify as to the affidavit contents? Or what if the annexures fail to meet evidentiary test of admissibility? Where will be his evidence that the election occurred and what was the result?

A careful perusal of the petitioner's affidavit does not reveal any reason why the petitioner did not provide the information, Probably if he gave good reasons why he was not aware of the result on the announcement date for example that his agents were not availed the same or maybe there was violence or maybe that it was verbal and the declarations were not signed then the court would find good justification to salvage his case and those issues would be canvassed at the trial. He does not justify why he did not follow up on information that was easily available on the 10th August 2017 two days after announcement.

For example the Petitioner in this suit is seeking a recount of votes yet the results are not tabulated in the face of the petition neither are they detailed in his affidavit therefore how will this be reconciled by way of annexures? In the case of *Andama vs Benjamin Andolo Andayi* Election Petition No. 8 of 2013 the learned Judge was of the view that:

“...the evidence, whether by affidavit or otherwise, is meant to support what is contained in a party's pleadings and not to expand the cause of action. Affidavits being evidence, cannot attempt to bring evidence of allegations or complaints not contained within the ambit of the petition, or the answers to petition as the case may be”

I would want to believe that this is why failure to provide details is being treated very seriously by the judges of the strict school of thought. That is why in these cases the extent of non-disclosure has not been measured to serious or less serious. Once there is a finding that there is non-compliance the adverse consequences should therefore kick off. That is why none of the authorities in this school of thought have advised or considered a lesser transgression which if it occurred then a contrary consequence would be considered. I am satisfied that the petition falls short of the required legal threshold and should be struck out.

On the issue of security for costs and consequences of non-compliance.

I am guided by the school of thought that failure to comply with the provisions of Rule 73 renders the petition incompetent. In the present case as part of the efforts to effectively manage its elections first scheduled a mention date for the petition 13/10/2017. On 17/10/2017 the parties by consent agreed to file whatever interlocutory Applications. They intended to file within 7 days (before 25/10/17) and the Respondents were given 7 days to respond (by 2/11/17).

Within this period the 1st Respondent filed a Notice of Motion dated seeking to extend the time for filing affidavits. The 3rd respondents also filed a Notice of Motion dated 29/9/17 also seeking extension of time to file affidavits. The Petitioner was again by consent of all parties granted leave to file an application for extension of time to deposit security for costs. This application and the 3rd Respondents Application seeking striking out of the petition was filed for hearing on the 15/11/2017.

The Petitioner did not file his Application for extension of time after leave was granted by consent of parties. The Petitioner has not filed response to the Application by the 1st, 2nd and 3rd Respondents which

seeks to strike out the petition. He failed to comply with the orders issued on the 1st November 2017 giving him 5 days within which to file his request for extension of time. The Petitioner had not up to the time this application was fixed for hearing deposited nor attempted to deposit security for costs. The Petitioner and his advocate were absent in court on 15/11/2017 to oppose and/or respond to the Respondent's Application to strike out his petition. The court waited for over two hours for them to turn up. The counsels made several desperate attempts to telephone the counsel to appear in court to no avail till the court had to proceed with the application ex parte. The petitioner was 39 days out of time.

The Petitioner therefore has not complied with Rule 13 of the Elections (Parliamentary and County) Election Regulations 2017. Fortunately the interpretation of the law on these issues are now a well-worn path as the consequences of non-compliance with Rule 13. The question as to whether an election court can extend time a question in relation to where an election count case can extend time for depositing security under Rule 19 has already been given interpretation and application in a myriad of cases dating back to 2005, from the year 2010 – 2013 but very recently in election petitions in the year 2017. In the last 2 months, these cases are all cited with approval in 2017. Counsels. Submissions are replete with very relevant authorities. The case of ***Milton Kimani Waitinga v IEBC and 2 Others*** Election Petition No. 2 of 2017 (Kiambu) is a case in point where the facts were similar to the case at hand. In that case a petitioner had said that he was unable to pay the security for costs because he was going through a rough patch financially after concluding an expensive campaign and requested seven (7) days to pay but he did not comply. Ngugi J made the following remarks:

The clear requirement of the statute and subsidiary legislation is that a petitioner is required to deposit security for costs within 10 days of filing his petition. This did not happen here. Indeed more than 37 days later the petitioner had not paid. He had not made any effort to get leave of court to deposit security out of time. What more is that in this case the court had instructed the petitioner to respond to the application seeking to strike out the petition and he did not do so. The clear indication is that the petitioner is not serious about prosecuting the petition. There is simply no good reason to keep the petition alive. As I have already indicated failure to pay security deposit in election petition goes to the root of jurisdiction of the court to hear the petition. The logical conclusion then is that the court has no jurisdiction to take any further action in the petition”

The learned judge went ahead and strike out the petition

I am of the similar view that failure to pay the security for costs goes to the root of jurisdiction of the petition. It is chrystal clear that the Petitioner in this case is not serious about defending the application by the respondents and by extension, the petition. There is no good reason to keep the petition alive.

Even if this court was accept the school of thought that argues that courts can enlarge time, that school of thought is categorical that good reasons have to be given by a petitioner as to why he has failed to comply. In the ***Tom Onyango Agimba*** case (supra), Sewe J opined that any extension of time in depositing security for costs could only be granted by the court for justifiable cause and not as a matter of course.

In the case at hand the current case this petition cannot be salvaged since the petitioner has not filed a replying affidavit or grounds explaining why he failed to comply with either the court order requiring him to file an application for enlargement of time. Neither has he given any reason to move this court to rule in his favour. Extension of time like the learned judge as stated, is not automatic and in my view and it would be grossly prejudicial to the respondents for this court *suo motto* nudge forward an unwilling and unresponsive petitioner to deposit security for costs. The costs of the petition started accruing from the date the defence counsel took instructions from the respondents. They have responded promptly and filed their responses. Pleadings are closed and a pre-trial case conferencing has already been done.

This matter was fixed for hearing this week. The petition fails the test set by both strict view adherents and liberal view adherents. Article 159(2)(d) of the constitution cannot be used as a panacea to aid indolent un-interested petitioners like in this case. The logical conclusion is that the court cannot take further action on the petition. I therefore find that this application succeeds as against the petitioner and

order as follows:

i) Petition is hereby stuck out.

ii) The Respondents are awarded the cost of the petition.

iii) Certificate of this determination in accordance with section 86 of the Elections Act shall issue to the I.E.B.C and speaker of the National Assembly.

Orders accordingly.

Hon. Dr. Julie Oseko

CHIEF MAGISTRATE

Delivered in open Court in the presence of:

Petitioner/Advocate for the petitioner

1st Respondent/Advocate for the 1st Respondent

2nd Respondent/Advocate for the 2nd Respondent

3rd Respondent/Advocate for the 3rd Respondent

Court Clerk: Roba Jarsan and Nasibo

Dated this 30th November 2017