



REPUBLIC OF KENYA
IN THE CHIEF MAGISTRATE'S COURT AT GARISSA
ELECTION PETITION NO. 1 OF 2017.

ABDIWAHAB SHEIKH OSMAN HATHE.....PETITIONER

VERSUS

MOHAMED ALI SHEIKH.....1ST RESPONDENT

ABDULLAHI MOHAMED OLOW.....2ND RESPONDENT

ISAACK MUHUME MOHAMUD.....3RD RESPONDENT

I.E.B.C.....4TH RESPONDENT

RULING

Before me are four applications which the court directed that they be heard simultaneously. The applications are dated 25th September, 2017, 13th October, 2017 and 30th October, 2017.

In the application dated 25th September, 2017 the 2nd, 3rd and 4th respondents seeks leave to file a response to the petition dated 5th September, 2017 out of time.

This application is based on the ground that the 4th respondent (IEBC) was faced with avalanche of petitions not experienced in any election before. In the supporting affidavit sworn by the respondent's advocate, the counsel alleges that this petition had first been assigned to an advocate who was not comfortable with having to travel to Garissa, it was then reassigned to the current firm of advocates. The advocate further alleges that it was an uphill task to get hold of the returning officer to answer to the petition since he hails from Wajir.

The application dated 26th September, 2017 was filed by the 1st respondent on 27th September, 2017. The 1st respondent seeks leave to file his response to the petition out of time on ground that the response to petition was filed out of time due to difficulty and delay in obtaining crucial documents from the 4th respondent.

The petitioner filed grounds of opposition to these two applications. The grounds of application are dated 13th October, 2017. The grounds are that:-

- a. **Election petition deadlines are inextensible.**
- b. **The delay by the respondents is inexcusable and deliberate noting that the Notices of Appointment were filed on 22nd August, 2017 for the 1st respondent. 24th August, 2017 for**

- the 4th respondent and 29th August, 2017 for the 2nd and 3rd respondents.**
- c. The delay goes against the letter and spirit of Election Petition Laws that demands speedy hearing and conclusion.**

Since these two (2) applications are similar I have decided to deal with them together.

1st respondent's submissions in support of the 2 applications

Counsel for the 1st respondent submitted that Article 159 (2) (d) of the Constitution requires this Honourable court to dispense justice without undue regard to procedural technicalities. He argued that the respondents filed their responses to the petition out of time due to challenges in obtaining the statutory forms from 4th respondent which were necessary in preparation of the response. He further argued that the responses to petition are important pleadings that if they were to be expunged from the court records, the respondent will suffer substantial injustice and prejudice in mounting a defence against the petition.

The counsel further submitted that if the applications are not allowed, it would be tantamount to condemning the respondents unheard and this would occasion a great injustice to the respondents and the people of Abakaile Ward who elected the 1st respondent as the member of the County Assembly.

He contended that Rule 19(1) of the Elections (Parliamentary and County Elections) Petition Rules 2017 affords this court discretion to extend time whose time has been stipulated by the Rules or granted by court. This is to ensure that injustice is not occasioned to any party.

He cited the case of Michael Gichuru –vs- Regathi Gachagua & 2 others (2017) eKLR where the court was faced with a similar application and it held as follows:-

“It is in exercise of this discretion accorded to this court by Rule 19 (1) of the elections Petitions Rules, 2017 to extend or limit time prescribed or ordered by the court notwithstanding that such time has expired, that part inclined to extend the time within which the 1st respondent ought to have filed and served his response.”

He also cited the case of Raila Odinga & 2 others –vs- Independent Electoral and Boundaries Commission & 2 others (2017) eKLR, where the Supreme Court of Kenya was faced with similar applications where the fate of the respondents response to petition was at stake. The court reasoned that the nature of this application is such that were it not to be granted, it would dispose of the entire case of the 1st, 2nd, and 3rd respondents at this preliminary stage, such a drastic consequence cannot be justified if the scales of justice are weighted in favour of all the parties to this petition.

Lastly he submitted that the petitioner has already been served with the response and is unlikely to suffer any prejudice is the response is admitted.

2nd, 3rd and 4th Respondents submissions in support of the 2 applications.

Counsel for the respondents argued that the delay in filing the responses has been adequately explained and that the petitioner will not suffer prejudice in anyway if the prayers sought are granted. He reiterated that Rule 19 (1) of the elections (Parliamentary and County Elections) Petition Rules 2017 gives this court discretion to extend the time for filing responses.

He further submitted that by allowing the prayers sought all the parties will be given their day in court to present the relevant evidence enabling the court to reach a logical conclusion and thus serving justice to the people of Abakaile Ward. He also cited the case of Raila Odinga and 2 others –vs- IEBC (Supra) in support of his application.

Petitioner's submissions in opposition of the 2 applications

Counsel for the petitioner submitted that the respondent took a month and in some instances one month and some days to file their responses from the date when they appointed advocates (to represent them) The 1st respondent filed a response on 12th September, 2017 while the rest of the respondents filed a joint response on 18/9/2017. The responses were filed out of time and without leave of court. The respondents are seeking leave respectively a strange phenomenon in law. The proper procedure should have been to seek leave first then file the responses if the court allows it. The responses as filed are therefore null and should be struck out.

He submitted that Rule 11 of the Elections (Parliamentary and County Elections) Petition Rules provides that responses are to be filed within 7 days of service of the petition. The petition was served on 21st August, 2017 and as such the responses should have been filed by 28th August, 2017.

He further argued that the reasons given are not satisfactory. He alleges that the 1st respondent wholly relied on forms provided by the 4th respondent on the public portal and it was therefore possible for him to file response within time with the available information.

He argued that the allegation by the advocate for the 2nd to 4th respondents that he received instructions late is factually incorrect noting that he filed the notice of appointment 8 days after service and he took another 20 days before filing his response. He submitted that the 3rd respondent knew he was a respondent in an election petition and he failed to honour summons on him by his advocate made through telephone calls and e-mails and therefore he is not worthy of the courts discretion to extend time.

Lastly the counsel referred the court to the supreme court of Kenya in Election Petition Number 5 of 2013 Raila Odinga –vs- IEBC and 5 others 2013 where the court struck out 800 pages of an affidavit that was filed without leave. This position was not changed in Election Number 1 of 2017 Raila Odinga –vs- IEBC and others where the only issue was later service of already filed document.

Analysis and Determination of the 2 applications

I have carefully read and understood the contents of the 2 applications, the grounds of opposition as well as the parties submissions. The two applications seeks leave to file response to the petition out of time and that the responses which have already been filed be admitted out of time.

Rule 11 (1) of the Elections (Parliamentary and County Elections) Petitions Rules 2017 requires a respondent who wishes to oppose a petition to file his response within 7 days from the date of service.

The petitioner’s counsel argued that this court does not have powers to extend time for filing responses. However I find this assertion to be legally untenable. Rule 19 (1) of the Elections (Parliamentary and County Elections) Petition Rules provides that:-

“(1) Where any act or omission is to be done within such time as may be prescribed in these Rules or ordered by an elections court, the election court may, for the purpose of ensuring that injustice is not done to any party, extend or limit the time within which the act or omission shall be done with such conditions as may be necessary even where the period prescribed or ordered by the court may have expired”.

The issue for the court to determine is whether the respondents are entitled to the orders sought.

The respondents have explained the difficulties they faced in obtaining relevant materials to enable them to file their responses to the petition.

Under Article 159 (2) (d) of the Constitution the courts are required to administer justice without undue regard to technicalities.

Under Rule 5 of the Elections (Parliamentary and County Elections) Petition Rules 2017, this court is

given discretion to decide the appropriate cause of action in an event of non-compliance with the rules as is obtaining in the present case.

In the present case the responses have already been filed and served upon the petitioner. The petitioner argued that it was procedurally wrong for the respondents to file their responses without first obtaining the leave of the court. However it should be noted that Election Petitions are supposed to be heard and determined within strict timelines and in my view the respondents were just being diligent.

I do concur with the respondents submissions that refusal to grant the orders sought would have drastic consequences. The court is supposed to satisfy itself that the respondents had a justifiable reason which hindered them not to file their responses within the time prescribed by the law.

The two (2) applicants have explained that there was a delay in obtaining all the relevant information to enable them to sufficiently answer the allegations raised in the petition. I find the explanation to be reasonable and plausible.

I also note that the delay was not inordinate, to ensure that no injustice is occasioned to any party to the petition. I would allow the applications and grant the orders sought. The costs of the 2 applications will be in the cause.

Notice of Motion dated 13th October, 2017

In the application dated 13th October, 2017 the petitioner seeks the following orders:

1. **That the honourable court be pleased to grant leave to the petitioner to amend the Election Petition dated 17th August, 2017.**
2. **That the draft amended petition annexed to the supporting affidavit of Abdiwahab Sheikh Osman Hathe be deemed as duly filed and served.**
3. **That the Honourable court be pleased to grant leave to the petitioner to file a further affidavit sworn by an officer of East Africa Data Handlers in support of the amended petition.**
4. **That the Ballot box containing the votes cast for the member of county assembly, Abakaile Ward at Kumahumato polling station 01 be availed in court for the purpose of fixing additional seals.**
5. **That the honourable court be pleased to order the 4th respondent to give access to the petitioner to the KIEMs kit used at Kumahumato polling station 1 on 8th August, 2017 for purposes of obtaining the register of voters at the subject polling station.**
6. **That the honourable court be pleased to order Safaricom Limited to produce text messages sent from cell phone number 0725220626 to 0729022777 between 8th August, 2017 to 9th August, 2017.**
7. **Any other order the court deems fit and just.**

The application is based on the following grounds:

- a. **There are typographical and inadvertent errors in the election petition dated 17th August, 2017 which if not corrected by way of amendments will affect the petitioner's case. The errors are:**
 - i. **Stating that the petitioner's agent noted the seals used to fasten the ballot boxes containing member of parliament votes instead of member of county assembly in paragraph 15.**
 - ii. **Paragraph 15 of the petition ought to be immediately after the table in paragraph 16.**
- b. **The respondents have declined to respond to paragraph 5 on the basis of that the parliamentary voting process has not been impugned in the petition. This places the petitioner on a disadvantage.**

- c. **With regard to affixing additional seals, the parties to the petition have given two different versions of seals used to secure the ballot box of the member of county assembly votes, Kumahumato polling station 1.: it is therefore judicious to affix additional seals to allay the parties misgiving of interference with the seals.**
- d. **The information technology expert requires seven (7) days to conclude his report that is why his affidavit is not included in the amended petition. The court has the discretion to allow filing of further evidence and it is judicious to allow such an application.**

The application is supported by the affidavits of Abdiwahab Sheikh Osman Hathe and Moses Odhiambo an IT expert.

The 1st respondent opposed the application by filing grounds of opposition dated 24th October, 2017 and filed on the same date. 1st respondent opposes the application on the following grounds:

1. **That the petitioner had constitutionally mandated timeline of 28 days from the date of announcement of the Elections to prepare the petition, the affidavits and further collect sufficient time for the petition to be watertight and drafted.**
2. **That the timelines as to which the petition should be heard and determined which is within 6 months have been clearly set out. This honourable court is only left with 4 months for the hearing and determination of the petition.**
3. **That in the application the petitioner makes fresh allegations which will fundamentally change the nature and character of the petition. The respondents will be required to disenable the entire response and focus on the new claims the petitioner makes in the application and the draft amended petition.**
4. **That in the instant application the petitioner is seeking to introduce fresh evidence that will greatly prejudice the respondent's right to a fair hearing contrary to provisions of Elections (Parliamentary and County Elections) Petitions rules 2017.**
5. **That this honourable court lacks jurisdiction to allow the application as Election Act and Rules do not donate powers for an / of an Election Petition**
6. **That the sections of the rules relied upon by the petitioner in their application are not applicable for the amendment of the petition by the honourable court. Section 80 (1) (b) is in regards to the powers of the Election Court and Section 16 (1) (A) (B) and (C) is on the storage of ballot boxes and other materials.**
7. **That the application is an attempt to amend the petition contrary to the provisions of the Elections (Parliamentary and County Elections) Petitions Rules, 2017, particularly Section 19(2) of the Elections (Parliamentary and County Elections) Petitions rules, 2017 which provides that extension of time does not apply to the period in which the petition is supposed to be filed.**

2nd, 3rd and 4th respondents through their advocate also filed grounds of opposition dated 31st day of October, 2017 opposing the application. They opposed the application on the following grounds:

1. **That on application for leave or amendment must be made and granted for challenging the relevant election that is within 28 days from the declaration of the results of the election.**
2. **That the amendment the petitioner seeks are geared towards curing defects the petitioner committed in his petition and if the application is allowed it would greatly prejudice the respondents.**
3. **That the application is not more than a fishing expedition for evidence.**

Petitioner's submissions

The petitioner through his advocates submitted that the following prayers are not opposed.

1. **Fixing of additional seals.**
2. **Access to information in the KIEMs kits**
3. **Safaricom to produce text messages sent from cellphone number 0725220626 to 0729022777**

between 8th August 2017 and 9th August, 2017

He submitted that the court has discretion to allow amendments at any time in the course of the case. He cite the case of Ramadhan Seif Kajembe –vs- Returning Officer, Jomvu Constituency and 3 others, Election petition (Mombasa) No. 10 of 2013 where the court held as follows:

“The courts may allow amendments to correct inadvertent errors and omissions at any stage of EDR proceedings including appellate stages where the amendment would not occasion prejudice to any party”

In the written submission the petitioner’s counsel has put a table showing the initial averments in the petition, amendments proposed and effects of the proposed amendments.

He argues that the amendments were carefully considered so as not to burden the respondents. According to him the amendments do not introduce a new cause of action and will not result in dismantling of the 1st respondent’s response.

He further submitted that the petitioner would not have amended the petition within the stipulated time since the petition was filed on 17th August, 2017 and the court was appointed to hear the petition on 15th September, 2017.

Lastly he argues that the affidavit of the expert is meant to comply the complaints in paragraph 24 of the petition which talks about a facebook account, the owner and the statements therein which are meant for campaign for the 1st respondent.

1st respondents’s submission in opposition of Notice of Motion dated 13th October, 2013

The counsel reiterated the averments in the grounds of opposition. He further submitted that under Section 76 (4) of the Elections Petition, an application for adduction of new and additional evidence must be made within 28 days of the declaration of the results of the election where the new or additional evidence, if it were to be admitted and acted upon would have the effect of amending the election petition.

That the amended election petition is a new petition with new supporting affidavits and new supporting documents different from what was filed on 17th August, 2017. This is evident from the face of entire amended Election Petition dated 13th October, 2017 and supporting affidavits of Abdiwahab Sheikh Osman Hathe, Daud Aden Dolal, Dekow Hassan Farah and Ibrahim Farah Megas, all sworn on 13th October, 2017. By / of Article 87 (2) of the Constitution, Section 77 (1) of the Elections Act and Rule 19 of the Elections (Parliamentary and County Elections) Petitions Rule, 2017 this court does not have jurisdiction to allow the petitioner file a new election petition outside the constitutionally set 28 days which lapsed on 7th September, 2017.

Submissions by the 2nd to 4th Respondents in opposition to the Notice of Motion dated 13th October, 2017.

The counsel for the 2nd to 4th respondents submitted that the law governing amendment of petition is provided in Section 76 of the Elections Act. An application for leave or amendment must be made and granted within the time prescribed for the challenging the relevant election are 28 days of the declaration of the results of the election. The application herein is being brought out the time allowed.

That on the prayer to file further affidavit, an election court has the discretion to allow further affidavit but only if it is done within 28 days of the declaration of the results of the election. Further affidavit must not seek to introduce massive evidence which would in effect change the nature of the petition or affect the respondent’s ability to respond to the said evidence. The affidavit by one Moses Odhiambo which the petition seeks admission, introduces new expert evidence and unless the respondent are given time to seek

for experts, the respondents will be greatly prejudiced.

That the prayer for availing ballot boxes for the purposes of fixing additional seals is unmeritorious since the petitioner has not laid any bases.

That the prayer for availing KIEMs kit used at the subject polling station is a camouflaged prayer for scrutiny and should be declined since no cogent revision have been given.

That the prayer for Safaricom to produce text messages from Number 0725220626 to 0729022777 is not tenable since Safaricom is not a party to the petition and it amounts to a fishing expedition.

Analysis and determination

I have keenly perused the application, the grounds of opposition filed and the submissions by all the parties in this petition.

The application seeks several reliefs and I would deal with each prayer separately.

i. *Leave to amend the petition dated 17th August, 2017*

Under section 76 (4) of Elections Act an Election Petition filed in time and based on allegations of Election Offences can be amended with the leave of the court within the time prescribed for challenging the relevant election, which is within 28 days of the declaration of the results of the election.

The courts merely allow amendments to correct inadvertent errors and omissions at any stage of EDR proceedings, including appellate stage where the amendment would not occasion prejudice to any party. It was so held in the case of Ramadhan Seif Kajembe –vs Returning Officer, Jomvu Constituency & 3 others Election Petition (Mombasa) No. 10 of 2013. And in the case of Ismail Suleiman & 9 others –vs- Returning Officer, Isiolo County & 2 others, Election Petition No.2 of 2013 (Meru)

It was held that courts will not usually allow an application for amendment which seek or purport to cure a fatal defect in an election petition such as failure to comply with prescribed mandatory requirements.

Further the courts will not allow an application or amendment where such an application is no more than a fishing expedition for evidence as was held in the case of Charles Nyaga Njeru –vs- IEBC & Another, Election Petition (Chuka) No. 1 of 2003.

According to the petition herein the results of the election were declared on 9th August, 2017 28 days lapsed on 6th September, 2017. The application herein was filed on 13th October, 2017. This was long after expiry of the 28 days given by the law for an amendment of an election petition. This means that this court lacks discretion to extend time fixed and limited by the constitution for filing an election petition after 28 days of results unless the amendments sought are to correct inadvertent errors and omissions apparent on the face of the petition.

I have perused the draft amended petition and the support affidavit of the petitioner and I note that it introduces new and fresh evidence in form of additional documents and averments both in the petition and in the supporting affidavit. The High Court at Kitale in *Robinson Simiyu Mwangi & Another –vs- IEBC & 2 others (2017)* ruled as follows:

“ an election court has no jurisdiction to either allow an amendment to a petition or an application for leave to file further affidavit or adduce additional and /or new evidence if the amendment or evidence sought to be introduced will have the effect of changing the nature and character of the petition thereby substantively and effectively amending the petition upon the lapse of the 28 days period from the declaration of the results of concerted election.”

From the foregoing I find that the application for amendment of the petition is time barred. Substantially

the amendments sought are meant to introduce new and fresh evidence same for amendment in paragraph 15 of the petition where the petitioner seeks to amend “member of parliament” to read Member of County Assembly”. Save for this correction the prayer for amendment of the petition is declined.

2. Prayer for leave to file a further affidavit sworn by an officer of East Africa Data holders in support of the amended petition

Under Rule 15 (1) (h) of the Elections (Parliamentary and County Elections) Petitions Rules of 2017 an election court has discretion to allow the filing of further affidavits and admit new or additional evidence. An application for adduction of new and additional evidence must be made within 28 days of the declaration of the results of the election here the new or additional evidence, if it were to be admitted and acted upon would have the effect of amending the election petition. Secondly, an election court will not grant an application for the adduction of new or additional evidence where the grant of such an application will prejudice other parties for the dispute or / the constitutional / of timely resolution of election disputes.

The further affidavit sworn by Moses Odhiambo in support of the amended petition seeks to adduce new expert evidence. He avers that he received instructions from the petitioner’s advocates to provide certification of electronic evidence which the petitioner wishes to rely on 27th September, 2017. It should be noted that the petition herein was filed on 17th August, 2017. It took over one and half months for the petitioner to instruct the deponent to provide the alleged report. The report the expert wishes to introduce in the further affidavit is not even ready. In all fairness the respondents would also require an opportunity to controvert the same it is admitted from commensurate expertise. This would delay expeditious disposal of this petition given the fact that the court is only left with about two months to hear and determine this petition.

The petitioner should have gathered all his evidence before lodging his petition in court. The issue of introduction of an expert report appears to be an afterthought given the fact that the petitioner instructed the expert on 27/9/2017 and not earlier when the results of the election were declared. I therefore find this prayer to be / and I decline it.

3. Whether the ballot box was containing the votes cast for the member of county Assembly, Abakaile Ward at Kumahumato polling station 01 should be availed in court for the purpose of affixing additional seals and access to the KIEMs kit used at Kumahumato polling station.

In the petition there is a prayer for scrutiny and recounting of all ballot cast at Kumahumato polling station 01 for the position of a Member of a County Assembly of Abakaile Ward, Dadaab Constituency, Garissa County. There is also a prayer for an order directed at the 4th respondent to avail a report of the member of people positively identified during the election day by the KIEMs kit used at Kumahumato polling station. Therefore in my view the prayer for fixing additional seals is not unreasonable. It is meant to secure the ballot box in event the prayer of scrutiny is granted. I therefore allow it.

In my view there will be no prejudice caused for the respondents if the petitioner is granted access to the KIEMS Kit used at Kumahumato polling station 01. The petitioner has right to information. I therefore grant this prayer.

4. Whether the court should order Safaricom Limited to produce text messages sent from cell phone NO. 0725 220626 to 0729022777 between 8th August, 2017 to 9th August, 2017.

The two (2) cell phone numbers were being introduced through the draft amended petition which the court has already declined to admit as part of the court records. In the initial petition by the petitioner there is no mention of those cell phone numbers in both the petition and the supporting affidavit of the petitioner. Having declined to admit the amended petition this prayer had no legs to stand on and must fail. This prayer is accordingly declined.

The costs of this application to be in the cause.

Notice of Motion Dated 30th October, 2017

In this application seeks the following reliefs:

1. That the Honourable court be pleased to order the original purported polling station diary for Kumahumato polling station 1 be examined by a handwriting expert, certified fraud examiner and /or any other expert necessary to ascertain the veracity of the said Diary.
2. That the Honourable court be pleased to order the 3rd respondent to produce the original purported polling station Diary for Kumahumato polling station 1 in court.

The application is supported by the grounds contained on the body of the application and the support affidavit of Paul Mugwe Nyaga – Advocate for the petitioners among them are:

- a. **Pursuant to the court order that the petitioner be granted a copy of the polling station diary for Kumahumato polling station 1, the 2nd to 4th respondents advocates supplied a photocopy of the said diary and scanned copies of the same that were shared on email.**
- b. **The diary is forgery even to / person. The respondents are responsible for the / by virtue of being in possession of the diary or having an interest in the outcome of the forgeries.**
- c. **That the petitioner agent took a photo of the subject diary showing the serial number of the seals that were used to secure the ballot box. The serial numbers for the seals have since been changed on the subject diary.**
- d. **The polling station diary was not stored in accordance to the Regulation 86 (2) (a) (6) of the Election Regulations 2012.**
- i. **That the petitioner advocates affidavit in support of the instant application should be struck out since it breaches the basis rule of professional practice which prohibits swearing of affidavits on contested matters of facts by advocates appearing in the matter.**
- ii. **The issues raised in the application are premature and will anyway be dispensed with during the hearing of the petition.**
- iii. **The petitioner is attempting to move this Honourable court solely on apprehension and the / of his agent, which agent has not sworn any affidavit in support of the said allegation of forgery.**

The 2nd to 4th respondents filed grounds of opposition dated 8th November, 2017.

I have keenly looked at the application, the grounds of opposition and the written submissions filed by the parties.

The first issue for determination is whether the supporting affidavit by Paul Mugwe Nyaga is competent to support the application.

In the case of Nicholas Kipchichir Kimaiyo –vs- Wilson Kibet Kimutai & another (2014) eKLR it was held that:

“The advocates Mr. Jonah K. Korir has sworn an affidavit on / matters. In fact, he has sworn an affidavit based on information he obtained from other persons. In my honest evaluation of the contents of the affidavit, I find that they are matters about which the deponent cannot give first hand answers.

By reference to “first hand answers”, I mean answers about matters which the person providing the answers, had experienced in person. I find that the affidavit is incompetent. Accordingly, the supporting affidavit is hereby struck out forthwith.”

I have seen from the 1st respondents written submission that the affidavit was sworn by the petitioner. In the affidavit which I have and which is in the court record it is indicated that it was sworn by this Paul Mugwe Nyaga. In this affidavit is not attached to the application. We are not sure whether it was sneaked

into the file after the issue was raised by the 1st respondent or not.

Be that as it may be I find the affidavit sworn by Paul Mugwe Nyaga in support of the application to be incompetent since it touches on contested matters and he raises the matters which he cannot give first hand answers. I accordingly struck it out without a competent affidavit in support of the application, it follows that the application cannot stand and it is hereby dismissed with costs to the respondents.

Orders accordingly.

HON. C. MAUNDU CM

14/12/2017

14/12/2017

BEFORE: HON. C MAUNDU CM

COURT CLERK: ABDIKHER

PETITIONER: PRESENT

RESPONDENTS: 1-4 ABSENT

Mr. Faruq present for 2nd- 4th respondents.

Mr. Kembero present for 1st respondent.

Mr. Nyaga present for the petitioner

COURT: Ruling delivered in open court.

HON. C. MAUNDU CM

14/12/2017

MR. NYAGA: It now follows we take direction in the manner in which the petition would proceed for the ruling the petitioner would rely on the 2 affidavits. We have filed a a list of issues. We have filed and served.

I am just being served with a copy of issues by 1st respondent.