



**Onkoba v Omwoyo & 2 others (Election Petition E014 of 2023)
[2023] KECA 1044 (KLR) (5 July 2023) (Ruling)**

Neutral citation: [2023] KECA 1044 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT KISUMU
ELECTION PETITION E014 OF 2023
A ALI-ARONI, JA
JULY 5, 2023**

BETWEEN

DOLPHINE NYANGARA ONKOBA APPLICANT

AND

MICHELLE KEMUMA OMWOYO 1ST RESPONDENT

**INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION 2ND
RESPONDENT**

JUBILEE PARTY 3RD RESPONDENT

(An appeal from the Judgement of the High Court of Kenya at Nyamira (Lucy Njuguna, J) delivered on 29th May, 2023) in Election Petition Appeal No. E001 of 2023 (consolidated))

RULING

1. The matter was placed before me on the July 5, 2023 for mention for purposes of a pre-trial conference, when Mr Achoki for the appellant informed the court that the appeal arises from a judgement of the High Court sitting in Nyamira and ought to have been filed in the Court of Appeal sitting in Kisumu. He went further to explain that he had indeed wished to file at the Kisumu registry but was not in the know how the matter ended up in Nairobi.
2. The 2nd respondent's counsel was absent. However, Mr Mokua for the 1st respondent and Mr Maiyo for the 3rd respondent were both of the view that this matter could be heard in Nairobi.
3. Clearly from the pleadings before court the matter emanated from the High Court sitting in Nyamira and in the order of things ought to have been channeled to the Court of Appeal sitting in Kisumu. Indeed, the heading on the documents rightly states so. In my considered view, there would be no valid reason for having to hear the matter elsewhere other than Kisumu.



4. I hereby therefore, direct the registrar to re-direct the matter to the Court of Appeal sitting in Kisumu for a mention on priority basis.

DATED AND DELIVERED AT NAIROBI THIS 5TH DAY OF JULY, 2023.

ALI-ARONI

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JUDGE OF APPEAL

I certify that this is a true copy of the original

Signed

DEPUTY REGISTRAR

