



**Amani National Congress Party & 2 others v Shimenga & another (Election
Petition Appeal E001 of 2022) [2022] KECA 920 (KLR) (7 June 2022) (Judgment)**

Neutral citation: [2022] KECA 920 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT KISUMU
ELECTION PETITION APPEAL E001 OF 2022
PO KIAGE, M NGUGI & F TUIYOTT, JJA
JUNE 7, 2022**

BETWEEN

**AMANI NATIONAL CONGRESS PARTY 1ST APPELLANT
AMANI NATIONAL CONGRESS ELECTION BOARD 2ND APPELLANT
RAMADHAN BUTICHI 3RD APPELLANT**

AND

**DAVID KUBASU SHIMENGA 1ST RESPONDENT
INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION
(IEBC) 2ND RESPONDENT**

(Being an Appeal from the Judgment of the High Court of Kenya at Kakamega (Musyoka, J.) dated 27th May, 2022 in HIGH COURT ELECTIONS APPEAL NO. E001 OF 2022)

JUDGMENT

1. We have considered the memorandum of appeal filed herein together with the written submissions filed by the parties to the appeal and the various authorities cited.
2. Having also heard the addresses by Mr. Malenya, learned counsel holding brief for Mr. Biketi for the appellant, and Mr. Isinta, learned counsel for the 1st respondent and noted the comment by Mr. Bosire, learned counsel for the 2nd respondent that he would rely on his written submissions entirely without highlighting, our decision on the appeal is as follows;
 - a. That the learned Judge erred in law in holding that the notice of appeal filed in the High Court precluded the appellants from pursuing their application for review before the Political Parties Dispute Tribunal.



- b. That this appeal therefore succeeds, and the judgment and decree of the High Court allowing the 1st respondent's appeal be and is hereby set aside, substituting therefor an order that the said appeal be dismissed.
 - c. That in consequence, the appellants' review application dated 28th April, 2022 shall forthwith be remitted to the Political Parties Dispute Tribunal for expedited hearing and disposal.
 - d. That each party shall bear its own costs of this appeal.
4. This judgment is rendered pursuant to Rule 32(5) of the Court of Appeal Rules (2010) conveying the decision of the Court with the reasons therefor to be given on 24th June, 2022.

Order accordingly.

DATED AND DELIVERED AT NAKURU THIS 7TH DAY OF JUNE, 2022.

P. O. KIAGE

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JUDGE OF APPEAL

MUMBI NGUGI

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JUDGE OF APPEAL

F. TUIYOTT

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JUDGE OF APPEAL

I certify that this is a true copy of the original.

Signed

DEPUTY REGISTRAR

