



**IN THE COURT OF APPEAL**

**AT NAIROBI**

**(CORAM: OMOLO, AGANYANYA & VISRAM, JJ.A.)**

**CIVIL APPLICATION NO. NAI 212 OF 2011 (UR 137/2011)**

**BETWEEN**

- 1. CLEMENT KUNGU WAIBARA**
- 2. CHARLES MARARO NJOROGE**
- 3. THE INTERIM INDEPENDENT ELECTORAL COMMISSION...APPLICANTS**

**AND**

**BENARD CHEGE MBURU.....RESPONDENT**  
*(Application for stay of execution pending the hearing of the appeal from the judgment of the High Court of Kenya at Nairobi (Ochieng, J.) dated 26<sup>th</sup> August, 2011*

**H.C. Election Petition No. 24 of 2008)**

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**RULING OF THE COURT**

Having read the record before us, and having heard arguments by counsel for all the parties, we are persuaded that the intended appeal herein is arguable, and indeed will be rendered nugatory if the orders sought in the application before us are not granted.

Accordingly, we allow the application and order stay of execution of the judgment and decree of **Ochieng, J.** dated 26<sup>th</sup> August, 2011 for a period of two (2) months from today, within which time the intended appeal shall be filed, heard and determined.

This order, unless otherwise extended by the Court, shall automatically lapse at the end of the said two months.

This ruling is delivered on the assumption that the Certificate pursuant to **Section 30(1)** of the National Assembly & Presidential Elections Act has not been signed and served upon the Speaker of the National Assembly as at 12.00 noon today, 8<sup>th</sup> September, 2011.

***Dated and delivered at Nairobi this 8<sup>th</sup> day of September, 2011***

**R.S.C. OMOLO**

.....  
**JUDGE OF APPEAL**

**D. K. S. AGANYANYA**

.....

**JUDGE OF APPEAL**

**ALNASHIR VISRAM**

.....

**JUDGE OF APPEAL**

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

**DEPUTY REGISTRAR**