



REPUBLIC OF KENYA



KENYA LAW
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**Kuria & 5 others v Hassan & 5 others (Petition 3, 4 & 5 of 2013 (Consolidated))
[2013] KESC 3 (KLR) (Election Petitions) (20 March 2013) (Directions)**

MOSES KIARIE KURIA & 2 OTHERS V ISSACK HASSAN & ANOTHER[2013]eKLR

Neutral citation: [2013] KESC 3 (KLR)

**REPUBLIC OF KENYA
IN THE SUPREME COURT OF KENYA**

ELECTION PETITIONS

PETITION 3, 4 & 5 OF 2013 (CONSOLIDATED)

**WM MUTUNGA, CJ & P, PK TUNOI, MK IBRAHIM,
JB OJWANG, SC WANJALA & N NDUNGU, SCJJ**

MARCH 20, 2013

BETWEEN

MOSES KIARIE KURIA 1ST PETITIONER

DENIS NJUE ITUMBI 2ND PETITIONER

FLOWRENCE JEMATIAH SERGON 3RD PETITIONER

AND

ISSACK HASSAN 1ST RESPONDENT

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

AS CONSOLIDATED WITH

PETITION 4 OF 2013

BETWEEN

GLADWELL WATHONI OTIENO 1ST PETITIONER

ZAHID RAJAN 2ND PETITIONER

AND

AHMED ISSACK HASSAN 1ST RESPONDENT

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



UHURU MUIGAI KENYATTA 3RD RESPONDENT
WILLIAM SAMOEI RUTO 4TH RESPONDENT

AS CONSOLIDATED WITH
PETITION 5 OF 2013

BETWEEN

RAILA ODINGA PETITIONER

AND

INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION 1ST
RESPONDENT

AHMED ISSACK HASSAN 2ND RESPONDENT

UHURU KENYATTA 3RD RESPONDENT

WILLIAM SAMOEI RUTO 4TH RESPONDENT

Supreme Court issues directions for the presidential election petitions challenging the outcome of the March 4, 2013 presidential elections

Reported by Kakai Toili

Electoral Law - election petitions - presidential election petitions - what was the role of advocates in relation to the conduct of their clients in presidential election petitions - what was the role of the media in relation to their conduct in presidential election petitions.

Brief facts

Three petitions challenging the validity of the March 4, 2013 presidential elections were filed in the Supreme Court. The petitions had elicited immense public interest and generated endless media coverage and commentary. The court issued directions to be followed before the petitions were determined.

Issues

- i. What was the role of advocates in relation to the conduct of their clients in presidential election petitions.
- ii. What was the role of the media in relation to their conduct in presidential election petitions.

Held

1. The court was ready and prepared to hear and determine the petitions on the basis of the Constitution, the applicable law, and the evidence. In the interests of justice and for the efficient, effective, transparent and impartial determination of the petitions, the court issued the following directions:
 1. The court was fully seized of the petitions challenging the presidential elections. Towards that end, the petitioners and respondents, and their agents, supporters or advisors were directed to desist from prosecuting the merits of their cases in any forum other than the court.
 2. It was the responsibility of the advocates on record to advise their clients in the cases about the consequences of conduct or statements that could undermine the authority of the court.
 3. While the media had to, in keeping with its constitutional mandate, continue to keep the public informed about the progress of the petitions, media houses and individual journalists and



- commentators were to perform their functions in a fair, impartial and responsible manner. The media was required to strictly adhere to the code of conduct for the practice of journalism in Kenya at all times.
4. A comprehensive checklist of documents and relevant matters would be prepared and issued by the court to the advocates on record, in time for the pre-trial conference, scheduled to take place on the March 25, 2013. Upon receipt of the checklist, parties would be required to prepare and file their responses in the Supreme Court Registry on or before the March 23, 2013.

Directions issued.

Citations

Cases

None referred to

Statutes

Kenya

Constitution of Kenya In general - (Cited)

Advocates

None mentioned

DIRECTIONS

1. Three petitions challenging the validity of the just concluded presidential elections have been filed in the Supreme Court. The petitions have, not surprisingly, elicited immense public interest and generated endless media coverage and commentary. The court is ready and prepared to hear and determine the petitions on the basis of the Constitution, the applicable law, and the evidence. In the interests of justice, and for the efficient, effective, transparent and impartial determination of the petitions, the court hereby issues the following directions.
 1. The court is now fully seized of the petitions challenging the presidential elections. Towards this end, the petitioners and respondents, and their agents, supporters or advisors are directed to desist from prosecuting the merits of their cases in any forum other than this court.
 2. It is the responsibility of the advocates on record to advise their clients in these cases, about the consequences of conduct or statements that can undermine the authority of this court.
 3. While the media must, in keeping with its constitutional mandate, continue to keep the public informed about the progress of these petitions, media houses and individual journalists and commentators are to perform their functions in a fair, impartial and responsible manner. The media is required to strictly adhere to the code of conduct for the practice of journalism in Kenya at all times.
 4. A comprehensive checklist of documents and relevant matter will be prepared and issued by the court to the advocates on record, in time for the pre-trial conference, scheduled to take place on the March 25, 2013. Upon receipt of the said checklist, parties shall be required to prepare and file their responses in the Supreme Court registry on or before the March 23, 2013.

DATED AND DELIVERED AT NAIROBI THIS 20TH DAY OF MARCH, 2013.

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W MUTUNGA

CHIEF JUSTICE & PRESIDENT OF THE SUPREME COURT OF KENYA



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PK TUNOI

JUDGE OF THE SUPREME COURT OF KENYA

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MK IBRAHIM

JUDGE OF THE SUPREME COURT OF KENYA

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JB OJWANG

JUDGE OF THE SUPREME COURT OF KENYA

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SC WANJALA

JUDGE OF THE SUPREME COURT OF KENYA

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NS NDUNGU

JUDGE OF THE SUPREME COURT OF KENYA

I certify that this is a true Copy of the original

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SUPREME COURT OF KENYA

