



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAIROBI (NAIROBI LAW COURTS)**

**Election Petition 27 of 2008**

**STANLEY LIVONGO LIVONDO ..... PETITIONER**

**VERSUS**

**RAILA AMOLO ODINGA ..... 1<sup>ST</sup> RESPONDENT**

**JOSEPHINE MWENGI ..... 2<sup>ND</sup> RESPONDENT**

**ELECTORAL COMMISSION OF KENYA ..... 3<sup>RD</sup>**

**RESPONDENT**

**RULING**

This is an application by the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents for Review under Order 44 of the Civil Procedure Rules. They seek the following order:

***“That this Hon. Court do review its Order on Costs in its Ruling of 4<sup>th</sup> April, 2008 and award Costs to the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents along with the 1<sup>st</sup> Respondent.”***

By a Ruling handed down 4<sup>th</sup> April, 2008, I disallowed the Petitioner’s application to examine on oath four deponents, and awarded costs only to the 1<sup>st</sup> Respondent. Mr Gaturu, Counsel for the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents was present and participated in those proceedings. He is aggrieved that costs were not awarded to his clients. He is right. Costs should have been awarded to his clients, but I did not do so erroneously.

In opposing the 2<sup>nd</sup> and 3<sup>rd</sup> Respondent’s application, Mr Wamae, Counsel for the 1<sup>st</sup> Respondent, argued that the issue before the Court, at that time, was essentially between the Petitioner and the 1<sup>st</sup> Respondent, and accordingly the other Respondents should not be awarded costs. I am unable to accept that argument. The 2<sup>nd</sup> and 3<sup>rd</sup> Respondents were indeed dragged into the Petitioner’s application; they were forced to sit through it; and they did indeed participate in the same; and are fully entitled to the costs. Accordingly, I allow their application dated 3<sup>rd</sup> November, 2008 and award them the costs of that application to be paid by the Petitioner.

Dated and delivered at Nairobi this 17<sup>th</sup> day of December, 2008.

**ALNASHIR VISRAM**

**JUDGE**



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