IN THE COURT OF APPEAL

AT NAIROBI

(CORAM: MWERA, MUSINGA & KIAGE, JJ.A.)

CIVIL APPLICATION NO. 137 OF 2013 (UR 94 OF 2013)

(IN THE MATTER OF AN APPLICATION FOR STAY OF PROCEEDINGS AND EXECUTION OF THE ORDER FORBIDDING USE OF PUBLIC DOCUMENTS EVIDENCE IN ELECTION COURT IN AN INTENDED APPEAL)

BY

FERNDINAND NDUNG'U WAITITU..... ……. APPLICANT/INTENDED APPELLANT

AND

INDEPENDENT ELECTORAL & BOUNDARIES COMMISSION, IEBC.....1ST RESPONDENT

ISAAC HASSAN... …….. 2ND RESPONDENT

THE NAIROBI COUNTY RETURNING OFFICER .....…….3RD RESPONDENT

EVANS ODHIAMBO KIDERO..... …….. 4TH RESPONDENT

JONATHAN MWEKE..... ……5TH RESPONDENT

THE HONOURABLE ATTORNEY GENERAL.....…….. 6TH RESPONDENT

D.C.I.O. GIGIRI POLICE DIVISION, NAIROBI .....…….. 7TH RESPONDENT

D.C.I.O. KAYOLE POLICE DIVISION, NAIROBI .....…….. 8TH RESPONDENT

THE INSPECTOR GENERAL OF THE NATIONAL POLICE SERVICE..... …….. 9TH RESPONDENT

(Being an application for stay of proceedings and execution of the Ruling & Order (Mwongo, J.) refusing the petitioner/appellant the use of Forms 35 and 36

in

Nairobi High Court Election Petition No. 1 of 2013)

RULING OF THE COURT

The applicant filed an application by way of a Notice of Motion dated 26th June, 2013 brought under **Section 3A (1) (2)** of the **Appellate Jurisdiction Act** and **rules 5 (2) (b), 41 and 47** of the **Court of Appeal Rules**. The applicant sought the following orders:

"1. That this Notice of Motion be certified as urgent, and heard as expeditiously as possible, owing to its extreme and demonstrated urgency.

2. That this honourable court be pleased to grant leave to the applicant/intended appellant to appeal to this honourable court against the entire order and ruling of the Election Court in Nairobi High Court Election Petition No. 1 of 2013 made on June 26th 2013 by the Hon. Mr. Justice Mwongo.

3. That there be a stay of further proceedings in Nairobi High Court Election Petition No. 1 of 2013 pending the hearing and determination of this Notice of Motion.

4. That there be a stay of further proceedings in Nairobi High Court Election Petition No. 1 of 2013 pending the hearing and determination of the appellant's intended appeal.

5. That there be a stay of execution of the entire ruling and order of the Hon. Mr. Justice Richard Mwongo in Nairobi High Court Election Petition No. 1 of 2013 made on 26th June, 2013 and to stay all consequential orders arising from the said ruling, pending the hearing and determination of the intended appeal or until further orders.

6. That the proceedings based on the order of June 26th 2013 by the Hon. Mr. Justice Mwongo Nairobi High Court Election Petition No. 1 of 2013 forbidding the applicant from using the Forms 35 and 36 filed by the IEBC, first respondent in the Election Court be entirely set aside, and such of the respondents' witnesses testifying after the said date be cross examined by the applicant afresh.

7. That the costs of this application be borne by the respondent in any event."

The application was based on grounds stated in the body thereof as well as the applicant's affidavit sworn on 26th June, 2013. With leave of the Court, the applicant swore a supplementary affidavit which is also relied upon.

In the applicant's affidavit in support of the application, the applicant stated that he was aggrieved by the conditions imposed upon him in his counsel's cross examination of the respondents and their witnesses in that he was barred from using all forms 35 and 36 "filed" in the Election Court on 26th April, 2013 by the 1st respondent, the Independent Electoral and Boundaries Commission, hereinafter referred to as the "**IEBC**". He contended that the said order is very oppressive and amounts to a violation of his constitutional right to a fair trial under **Article 26 (c)** of the **Constitution of Kenya, 2010.** The order is further assailed as being a violation of the applicant's right to access justice under **Article 48** of the **Constitution.**

At this juncture it is important that we make reference to the impugned ruling that gave rise to the application before us. The ruling was as a result of objections raised by **Mr. Okonjo**, learned counsel for the 1st, 2nd, and 3rd respondents and **Professor Ojienda**, learned Senior Counsel for the 4th and 5th respondents, during cross examination of one **Fiona Nduku Waithaka** by **Mr. Kinyanjui,** learned counsel for the petitioner. Ms. Waithaka had testified that she had looked at all Forms 36 for all the 17 constituencies of Nairobi before she compiled form 36 for Nairobi County. Mr. Okonjo's objection to Mr.

Kinyanjui's cross examination on all Forms 35 and 36 that had been delivered to court by the IEBC was based on the fact that by seeking to rely on all those forms, which were not contained in the affidavits that had been filed as part of pleadings by the petitioner, Mr. Kinyanjui was going beyond the permitted scope of cross examination. The forms filed by the IEBC constituted thousands of pages and it would be unfair for the petitioner to rely on them generally as the scope of the petitioner's counsel's cross examination would extend beyond that allowed under **rule 15** of the **Elections (Parliamentary & County Elections) Petition Rules, 2013 Legal Notice No. 54,** hereinafter referred to as the **"Elections Petition Rules".**

Professor Ojienda objected to a general cross examination of the said witness on the said forms on the basis that:

i. His clients had not been served with the documents supplied by the IEBC to the court.
ii. Under **rule 12 (2) (c)** of the **Elections Petition Rules** cross examination is only permitted on contested issues and documents or affidavits properly filed and served.
iii. Cross examining the witness on Form 36 in respect of which the makers were not present for cross examination would be unfair to her and prejudicial to the 4th and 5th respondents.

In response, Mr. Kinyanjui pointed out that Ms. Waithaka had stated in her affidavit that the results from Forms 34 and 35 were transported to the Constituency Tallying Centre for tallying then to the County Tallying Centre. She was the maker of Form 36 and therefore the cross examination had not gone outside the scope of the witness's evidence. Counsel further stated that the IEBC, having delivered to court all the required documents, the court could not be asked to close its eyes on them simply because the 4th and 5th respondents had not been served with them. Lastly, Mr. Kinyanjui stated that on 24th June, 2013 the petitioner had requested that the court's Deputy Registrar do provide him with Forms 35 and 36 but the forms were not supplied.

The Election Court (**Mwongo, J.**) considered the arguments advanced by counsel as summarized hereinabove and in its ruling stated, *inter alia*, that under **rule 12** of the **Elections Petition Rules** the petitioner is required to file together with his petition an affidavit sworn by each witness whom the petitioner intends to call at the trial. The affidavit is required to contain the substance of the evidence and must be served on all parties. The affidavits form part of the record and a deponent may be cross examined thereon.

Likewise, under **rules 14** and **15,** the respondent(s) must file a response to the petition and an affidavit sworn by a witness whom the respondent intends to call at the trial and the affidavit should set out the substance of the evidence. The affidavit should be served upon all parties to the petitions and forms part of the record and the deponent may be cross-examined by the petitioners and re-examined by the respondent.

The learned judge further stated:

"To my mind, therefore, cross examination of a deponent in respect of an election petition must relate to the substance of the evidence of that witness. But it must also be relevant and material to the scope of that witness's deposed role, actions and involvement in the subject matter as circumscribed by the issues in contention and the party's pleadings.

Under rule 15 (4) a respondent's witness cannot give evidence unless he or she has previously filed a sworn affidavit setting out the substance of the evidence and which has been filed and availed to the parties. Given the aforesaid parameters, it is clear to me that documents

or items filed or delivered to the court pursuant to rule 21 of the Rules are not, and do not become part of the trial record unless and until the court grants leave for their use and inclusion in the trial.

…. Accordingly, and for the above reason, I am not inclined to allow the documents filed by the IEBC to be used in wide and general manner for cross examination which may amount to mere fishing for information.

…… …where the petitioner or his witnesses have deposed to a specific form 35 or 36 of IEBC in respect of or alleging an irregularity, malpractice or otherwise, this court shall grant leave to the petitioner to cross examine a witness using a specified form contained in the forms 35 & 36 filed under rule 21. The court shall grant leave on a case by case basis to ensure that the rights of all parties are duly protected, to guard against the enlargement or stifling of a party's case, and so as to bring on to the trial record only such matters in respect of which the pleadings specifically relate."

Having so held, the learned judge proceeded to specify the forms which the court would allow for cross examination. He further directed that the specified forms be photocopied and availed to the respondents. The entire exercise was to be completed within a period of one hour on the material day so that the hearing could proceed. That was done and the hearing went on.

Being aggrieved by that decision, the petitioner filed a notice of appeal against the entire ruling and also filed the application now before this Court. The petitioner annexed to his affidavit in support of the application a draft memorandum of appeal that reveals 12 grounds that he intends to raise in the proposed appeal.

Arguing the application before this Court, Mr. Kinyanjui advanced the usual grounds that are raised in all applications under **rule 5 (2) (b)** of this **Court's Rules** that, the intended appeal is arguable and it will be rendered nugatory if stay is not granted. He stated that the Election Court had on 27th June, 2013 refused an application for stay of proceedings and it is therefore only this Court that can grant an order to stay the proceedings. Counsel submitted that the petitioner's constitutional right of access to justice had been violated by the Election Court's refusal to allow his counsel to cross examine on all forms 35 and 36 without let or hindrance. Barring the petitioner from so cross examining the respondents is an unlawful impediment to his constitutional right of access to justice, he submitted. Counsel cited the Tanzanian Court of Appeal decision in the case of **NDYANABO vs. ATTORNEY GENERAL [2001] 2 E.A. 485**. In that appeal the court stated:

"Access to courts is, undoutbtedly, a cardinal safeguard against violations of one's rights, whether those are fundamental or not. Without that right, there can be no rule of law, and no democracy. A court of law is the last resort of the oppressed and the bewildered. Anyone seeking a remedy should be able to knock on the doors of justice and be heard."

Mr. Kinyanjui further supported the applicant's right to cross examine respondents without any hindrance by citing the case of **BHANDARI vs. GAUTAMA (1964) E.A. 606** at page 609 where the court cited a passage in Halsbury's Laws of England, 3rd Edition Vol. 15 as follows:

"Any party is entitled to cross examine any other party who gives evidence or his witnesses; and no evidence affecting a party is admissible against that party unless the latter has had an opportunity of testing its truthfulness by cross examination …. A witness once sworn, is liable to be cross examined, even though he has not given evidence or been asked any question in chief,

unless he has been called by mistake and not examined in consequence of the mistake being discovered."

At page 444 of the same volume the following passage appears at paragraph 801, viz:

"Cross-examination is directed to (1) the credibility of the witness: (2) the facts to which he has deposed in chief, including the cross-examiner's version thereof; and (3) the facts to which the witness has not deposed but to which the cross-examiner thinks he (witness) is able to depose."

On the second limb under **rule 5 (2) (b)** of this Court's Rules, Mr. Kinyanjui submitted that if this Court does not intervene, the very purpose of preserving the subject of the intended appeal will be defeated thereby causing extreme injustice to the petitioner as the Election Court will proceed to finalise the hearing and render its judgment whilst the petitioner had not fully cross examined some of the respondents' witnesses. In such an eventuality the intended appeal will be rendered nugatory, he contended.

Mr. Nyamodi and **Mr. Okonjo** on behalf of the 1st and 2nd respondents opposed the petitioner's application. They submitted that the petitioner had not satisfied the two conditions for grant of stay of proceedings stipulated under **rule 5 (2) (b)** of this Court's Rules. They stated that the applicant sought to rely on documents which are by law not evidence and are not part of the record of the Election Court as provided under **rules 8 (a), 10 (1) (f), 10 (2) (b)** and **12 (2) (a).** The election results in respect of the election of Governor of Nairobi, which include forms 35 and 36, had not been **filed** by the IEBC but had been **delivered** to the court under **rule 21 (b)** of the **Elections Petition Rules.** The said election results were not annexed to any affidavit as required by **rule 15 (1)** of the **Elections Petition Rules** or paid for as required under **rule 8** thereof and do not form part of the evidence of the 1st respondent.

Counsel further submitted that the applicant was seeking to expand the scope of his petition in a manner that offends the provisions of **Article 87 (2)** of the **Constitution** as regards the timelines for filing of petitions and hearing of the same. The petition and the affidavits sworn by the petitioner's witnesses comprise his entire case and he should not be allowed to seek evidence from other sources, counsel added.

Lastly, Mr. Nyamodi told the Court that there were no proceedings before the Election Court that were amenable to any order of stay because the hearing was almost finalized, all the witnesses having fully testified and cross examined and what was remaining were final submissions. He urged the Court to dismiss the application, noting that the law has set a limited period of six months from the date of filing a petition to hear and determine the same.

On his part, Professor Ojienda, relying on the 5th respondent's replying affidavit, opposed the application and stated that the appellate jurisdiction of this Court had not been properly invoked in view of the express provisions of **Article 164 (3)** of the **Constitution** and **Section 3(1)** of the **Appellate Jurisdiction Act** that grant an appeal as of right only in cases in which an appeal lies to this Court under any law. He cited **rule 35** of the **Elections Petition Rules** which states as follows:

"35. An appeal from the judgment and decree of the High Court shall be governed by the Court of Appeal Rules." *(*emphasis supplied*)*

He submitted that an appeal to this Court from a decision made by the High Court in an election petition can only lie in respect of a judgment and decree of that court but not from an interlocutory ruling. Senior Counsel pointed out that the Election Rules are intended to facilitate expeditious disposal of election

petitions and it was a deliberate act on the part of the Legislature to restrict the right of appeal to judgments and decrees only. Professor Ojienda buttressed that submission by citing a decision by the Court of Appeal of Uganda, **HON. GAGAWALA NELSON G. WAMBUZI vs. KENNETH LUBOGO**, **Election Petition Application No. 00100 Of 2011 (Unreported**). In that matter, the court made reference to **Section 66 (1)** of the **Ugandan Parliamentary Election Act 17 of 2005** which states as follows:

"(1) A person aggrieved by the determination of the High Court on hearing an election petition may appeal to the Court of Appeal against the decision."

Further, **rules 28 and 29** of the **Ugandan Parliamentary Elections, (Election Petitions) Rules** provide as follows:

"28. This part applies to appeals to the Court of Appeal from decisions of the High Court on determination of Election Petitions.

29. Notice of Appeal may be given either orally at the time judgment is given or in writing within seven days after the judgment of the High Court against which the appeal is being made."

Senior Counsel submitted that no appeal lies to this Court as a matter of right from an interlocutory order made by the High Court in an election petition.

As submitted by counsel for 1st and 2nd respondents, Professor Ojienda equally contended that the intended appeal is not arguable and also will not be rendered nugatory by refusal to grant the orders of stay of proceedings as sought.

He further submitted that the proceedings before the Election Court have almost come to an end except for the final submissions. In that regard, to stay proceedings in an election petition that is almost concluded would defeat the constitutional principle that election petitions should be disposed of expeditiously. He cited this Court's decision in **HON. JOEL OMAGWA ONYANCHA vs. SIMON NYAUNDI OGARI & ANOTHER, [2008] eKLR,** where the applicant had sought a stay of proceedings in an election petition before the High Court. This Court refused to grant the orders sought because the election petition was about to be completed and the Court remarked:

"We think to allow this particular application would defeat the principle that election petitions should be disposed of expeditiously which would in effect forestall quick disposal of election petitions."

Lastly, Senior Counsel submitted that a close reading of the express provisions of **Section 75 (2)** of the **Elections Act** together with **rule 22** makes it clear that the Electoral Code does not conceive of stay of proceedings in election petitions once commenced. **Rule 22 (1) & (2)** states as follows:

"(1) The court shall conduct trial proceedings, as far as reasonably practicable, on a day to day basis until trial is concluded.

(2) Despite sub-rule (1), the court in which the trial proceedings has commenced shall not be adjourned for more than five consecutive days."

Prof. Ojienda urged the Court to dismiss the application and strike out the notice of appeal.

We have carefully considered all the affidavits as well as submissions made by counsel in this application. Lengthy as they are, we think that the issues that fall for determination are basically two, that is:

i. ***Whether the applicant has a right of appeal to this Court from the High Court ruling dated 26th June, 2013, being an interlocutory decision; and***

ii. ***Whether the conditions for stay of proceedings in High Court Election Petition No. 1 of 2013 have been satisfied.***

In our determination of the first issue we wish to start by making reference **Article 87 (1)** of the **Constitution of Kenya, 2010** which states as follows:

"(1) Parliament shall enact legislation to establish mechanisms for timely settling of electoral disputes."

That provision was informed by the persistent delays in finalization of election petitions by our courts which was largely caused and/or contributed to by respondents in such petitions.

To meet that constitutional requirement, Parliament enacted the **Elections Act, 2011. Section 96** of the **Elections Act** empowered the Rules Committee as constituted under the Civil Procedure Act to make rules generally to regulate the practice and procedure of the High Court with respect to filing and trial of election petitions. Pursuant to the provisions of **Section 96** aforesaid, the **Elections Petition Rules** were formulated.

Further to the provisions of **Article 87 (1), Article 105** provides as follows:

"(1) The High court shall hear and determine any question whether-

a) A person has been validly as a Member of Parliament; or

b) The seat of a member has become vacant.

(2) A question under clause (1) shall be heard and within six months of the date of lodging the petition.

(3) Parliament shall enact legislation to give full effect to this Article."

Similarly, **Section 75 (1)** and **(2)** of the **Elections Act** states that:

"(1) A question as to validity of a county election shall be determined by High Court within the county or nearest to the county.

(2) A question under subsection (1) shall be heard and determined within six months of the date of lodging the petition."

These timelines set by the Constitution and the Elections Act are neither negotiable nor can they be extended by any court for whatever reason. It is indeed the tyranny of time, if we may call it so. That means a trial court must manage the allocated time very well so as to complete a hearing and determine an election petition timeously. It was therefore imperative that the Elections Petition Rules be amended

to bring about mechanisms of expediting trials.

The Elections Act and the Rules made thereunder constitute a complete code that governs the filing, prosecution and determination of election petitions in Kenya. That being the case, any statutory provision or rule of procedure that contradicts or detracts from the expressed spirit of **Articles 87 (1),** and **105 (2)** and **(3)** of the **Constitution** is null and void. The Constitution is the supreme law of the land and all statutes, Rules and Regulations must conform to the dictates of the Constitution.

In **MURAGE vs. MACHARIA [2008] 2KLR (EP) 244,** it was held that election petitions are governed by a self-contained regime and the Civil Procedure Rules were inapplicable except where expressly otherwise stated. That principle has been reiterated in several other election petitions including **MUIYA vs. NYAGA & OTHERS, [2003] 2 E.A. 616.** The Court must therefore, in making any decision or interpreting its mandate in regard to an election petition give due regard to the provisions of the Constitution cited hereinabove as well as the Elections Act and the Rules made thereunder.

The objective of the Elections Petition Rules is stated as follows:

"4(1) The overriding objective of these Rules is to facilitate the just, expeditious, proportionate and affordable resolution of the election petitions under the Constitution and the Act.

2. The Court shall, in the exercise of its powers under the Constitution and the Act or in interpretation of any of the provisions in these Rules, seek to give effect to the overriding objective specified in sub-rule (1).

3. A party to an election petition or an advocate for the party shall have an obligation to assist the court to further the overriding objective and, to that effect, to participate in the processes of the court and to comply with the directions and orders of the court."

As far as appeals are concerned, **rule 35** which we have already cited permits an appeal to this Court from the judgment and decree of the High Court in accordance with the Rules of this Court. In ordinary civil matters a party may appeal from an interlocutory order made by the High Court. **Section 75** of the **Civil Procedure Act** specifies the orders from which parties have a right of appeal without leave, which implies that in certain other orders a party would require leave of the court to file an appeal. A decree is defined as the formal expression of an adjudication which, so far as regards the court expressing it, conclusively determines the rights of the parties with regard to all or any of the matters in controversy in the suit.

In our view, **Rule 35** does not lend itself to an interpretation that a party has a right of appeal against an interlocutory order or ruling made by the High Court in an election petition. We think that the limitation to the right of appeal was deliberate, realizing that in the course of hearing an election petition a number of interlocutory applications that occasion interlocutory rulings do arise and if any party aggrieved by such decisions were to be allowed to appeal or seek stay of proceedings pending appeal it would be difficult, nay, impossible, to conclude an election petition before the High Court within the stipulated period of six months.

Section 80 (3) of the **Elections Act** states that:

"Interlocutory matters in connection with a petition challenging results of a presidential, parliamentary or county elections shall be heard and determined by the Election Court."

The Act defines "**Election Court**" to mean **"Supreme Court in exercise of the jurisdiction conferred upon it by Article 163 (3) (a) or the High Court in the exercise of the jurisdiction conferred upon it by Article 165 (3) (a) of the Constitution."** There is no reference whatsoever to the Court of Appeal in so far as determination of interlocutory matters is concerned. If at all it was the intention of Parliament to involve the Court of Appeal in determination of interlocutory matters, nothing would have been easier than to state that a party aggrieved by a determination of an interlocutory matter by the High Court may appeal to the Court of Appeal. Parliament must have intended to confine jurisdiction to determine interlocutory matters in petitions such as defined in **Section 80 (3)** above to the Election Court.

In **SAMUEL KAMAU MACHARIA & ANO. vs. KENYA COMMERCIAL BANK & 2 OTHERS, Supreme Court Civil Appeal (Application) No. 2 of 2011,** the Court delivered itself as follows regarding a Court's jurisdiction:

"A court's jurisdiction flows from either the Constitution or legislation or both. Thus a court of law can only exercise jurisdiction as conferred by the Constitution or other written law. It cannot arrogate itself jurisdiction exceeding that which is conferred upon it by law. Where the Constitution exhaustively provides for the jurisdiction of a court of law, the court must operate within the constitutional limits. It cannot expand its jurisdiction through judicial craft or innovation."

We believe the object of **rule 35** in allowing only appeals from judgments and decrees of an Election Court (in this case the High Court), is to facilitate expeditious hearing and disposal of election petitions as required by **Article 87 (1)** of the **Constitution.** To construe the said rule in any other way would be tantamount to defeating the purpose of the aforesaid Article of the Constitution.

The Ugandan case of **HON. GAGAWALA NELSON G. WAMBUZI vs. KENNETH LUBOGO (Supra),** which was cited by Professor Ojienda has considerable persuasive force and we respectfully adopt the holding therein. The Court of Appeal of Uganda in interpreting **Section 66 (1)** of the **Ugandan Parliamentary Election Act** which states that a person aggrieved by the determination of the High Court on hearing of an election petition may appeal to the Court of Appeal against the decision, delivered itself thus:

"The appeal envisaged here is an appeal against a decision determining an election petition rather than a decision from an interlocutory matter. We cannot read in this section any right of appeal against decisions of the High Court on interlocutory matters. The section has no exceptions or provisos relating to substantial points of law going to the root of a petition. The legislature makes no mistakes when it legislates. It is presumed to know what it wants provided in the law it makes. The law must be interpreted as it is and not, as it may be considered by some, it ought to be. The spirit behind that section and rules 28 and 29 of the Parliamentary Elections (Election Petitions) Rules S1 141-2 is that election petitions should be heard and concluded expeditiously, hence the absence of a provision for appeal against interlocutory orders of the High Court."

Our **rule 35** of the **Elections Petition Rules** is similar in nature to **rule 28** of the Ugandan Parliamentary Elections (Election Petitions) Rules which we have already cited and in **HON. GAGAWALA NELSON G. WAMBUZI vs. KENNETH LUBOGO (Supra),** the Ugandan Court of Appeal, in refusing to entertain an appeal from an interlocutory ruling in an election petition stated that "**determination**" of an election petition meant final decision reached by the High Court in an election petition after hearing evidence and submissions.

In view of the foregoing, we hold and find that under **rule 35** of the **Elections Petition Rules**, no appeal lies to this Court from an interlocutory order, ruling or direction by an Election Court. A party aggrieved by such an order must await delivery of the final judgment by the High Court then file an appeal to this Court. Such an appeal is also required to be heard and determined within six months from the day of its filing.

Having so held, the answer to the second issue for our determination, that is, whether the conditions for grant of stay of proceedings in High Court Petition Number 1 of 2013 have been met must be in the negative. A notice of appeal cannot be filed if in the first place the law clearly states that no appeal lies whatsoever. In view of that, a consideration of the other issues argued by counsel relating to the ruling by the learned judge will amount to an academic exercise which we do not wish to engage in. Consequently, the entire motion is dismissed and the notice of appeal filed in this matter by the applicant is ordered struck out. The applicant shall bear the costs of this application.

Dated and delivered at Nairobi this 24th day of July, 2013.

J.W. MWERA

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JUDGE OF APPEAL

D.K. MUSINGA

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JUDGE OF APPEAL

P.O. KIAGE

……..

JUDGE OF APPEAL

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

DEPUTY REGISTRAR