



Case Number:	Application 6 of 2018
Date Delivered:	03 May 2018
Case Class:	Civil
Court:	Supreme Court of Kenya
Case Action:	Order
Judge:	David Kenani Maraga, Jackton Boma Ojwang, Isaac Lenaola, Mohammed Khadhar Ibrahim, Philomena Mbeti Mwilu
Citation:	Mohamed Abdi Mahamud v Ahmed Abdullahi Mohamed & 3 others [2018] eKLR
Advocates:	-
Case Summary:	<p><b><u>Supreme court issues an order of stay on all actions bearing on the occupancy of the Wajir County Governor's Office on ground that there was an urgent situation affecting the said office</u></b></p> <p><b>Mohamed Abdi Mahamud v Ahmed Abdullahi Mohamed &amp; 3 others [2018] eKLR</b></p> <p><b>Application No. 6 Of 2018</b></p> <p><b>Supreme Court of Kenya</b></p> <p><b>D.K Maraga, CJ; P.M Mwilu, DCJ &amp; VP; J.B Ojwang; M.K. Ibrahim &amp; I Lenaola, SCJJ</b></p> <p><b>May 3, 2018</b></p> <p><b>Reported by Felix Okiri</b></p> <p><i>Jurisdiction - appellate jurisdiction - appellate jurisdiction of the Supreme Court - - application for order of stay – whether the Court could issue an order of stay on all actions bearing on the occupancy of the Governor's office on account of</i></p>

	<p><i>the Applicant's apprehension of vacancy on the said office.</i></p> <p><b>Brief facts</b></p> <p>The Applicant filed an appeal from the Judgment and decree of the Court of Appeal at Nairobi. The Applicant's counsel had filed a certificate of urgency, supported by the affidavit of the sitting Governor of Wajir County. It was averred that the Governor's office was destined to fall vacant and to be occupied by the holder of the Office of Speaker on account of delay in hearing the Applicant's case on the merits and disposing of it.</p> <p><b>Issue</b></p> <p>i. Whether the Court could issue an order of stay on all actions bearing on the occupancy of the Wajir County Governor's Office on account of the Applicant's apprehension of vacancy on the said office.</p> <p><b>Held</b></p> <p>1. While the appeal awaited hearing, there was an urgent situation affecting the Office of Governor of Wajir County. In order to secure the slated hearing before the Supreme Court, and to sustain the integrity of such finding and orders as the Supreme Court could ultimately make, it was essential to preserve the subject matter of the appeal.</p> <p><b>Orders</b></p> <p>1. <i>An order of stay issued staying all actions bearing on the occupancy of the Governor's office.</i></p> <p>2. <i>The status quo was not to be disturbed pending the hearing and determination of the matter pending before the Supreme Court.</i></p>
<p>Court Division:</p>	<p>Civil</p>
<p>History Magistrates:</p>	<p>-</p>

County:	Nairobi
Docket Number:	-
History Docket Number:	-
Case Outcome:	Staying order granted
History County:	-
Representation By Advocates:	-
Advocates For:	-
Advocates Against:	-
Sum Awarded:	-
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**REPUBLIC OF KENYA**

**IN THE SUPREME COURT OF KENYA**

*(Coram: Maraga, CJ &*

*P; Mwilu, DCJ & VP; Ibrahim, Ojwang & Lenaola, SCJJ)*

**APPLICATION NO. 6 OF 2018**

**-BETWEEN-**

**MOHAMED ABDI MAHAMUD.....APPELLANT**

**-AND-**

**AHMED ABDULLAHI MOHAMED.....1<sup>ST</sup> RESPONDENT**

**AHMED MUHUMED ABDI.....2<sup>ND</sup> RESPONDENT**

**GICHOHI GATUMA PATRICK.....3<sup>RD</sup> RESPONDENT**

**INDEPENDENT ELECTORAL AND**

**BOUNDARIES COMMISSION.....4<sup>TH</sup> RESPONDENT**

*(Appeal from the Judgment and decree of the Court of Appeal at*

*Nairobi by Hon. Justice Phillip Waki, Hon. Justice Patrick*

*Kiage and Hon. Justice Makhandia dated 20 April 2018)*

**May 3, 2018**

**Coram:**

D.K. Maraga, CJ & P.

P.M. Mwilu, DCJ & V-P.

Ibrahim, SCJ

Ojwang, SCJ

Lenaola, SCJ

**ORDER**

While the appeal awaits hearing, there is an urgent situation affecting the Office of Governor of Wajir County. The applicant's counsel has filed a certificate of urgency, supported by the affidavit of Mohamed Abdi Mohamad, the sitting Governor of Wajir

County, dated 23<sup>rd</sup> April, 2018. It is averred that the Governor's office is destined to fall vacant and to be occupied by the holder of the Office of Speaker, on account of delay in hearing the applicant's case on the merits and disposing of it.

In order to secure the forthcoming hearing before the Supreme Court, and to sustain the integrity of such finding and Orders as the Supreme Court may ultimately make, it is essential to preserve the subject matter of the appeal.

Accordingly, we hereby make this ORDER staying any and all actions bearing on the occupancy of the Governor's office. The *status quo* shall not be disturbed pending the hearing and determination of the matter pending before the Supreme Court.

*Orders accordingly.*

**DATED and DELIVERED at NAIROBI this 3<sup>rd</sup> day of May, 2018**

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**D.K. MARAGA**

**P.M. MWILU**

**CHIEF JUSTICE/PRESIDENT**

**DEPUTY CHIEF JUSTICE & VICE**

**OF THE SUPREME COURT**

**PRESIDENT, SUPREME COURT**

.....

.....

**M.K. IBRAHIM**

**J.B. OJWANG**

**JUSTICE OF THE SUPREME COURT**

**JUSTICE OF THE SUPREME COURT**

.....

**I. LENAOLA**

**JUSTICE OF THE SUPREME COURT**

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

**REGISTRAR,**

**SUPREME COURT OF KENYA**



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