



Case Number:	Appeal 28 of 2018
Date Delivered:	26 Mar 2019
Case Class:	Civil
Court:	Sports Disputes Tribunal
Case Action:	Decision
Judge:	John M. Ohaga, Chairperson Gilbert M T Ottieno , Member E. Gichuru Kiplagat, Member
Citation:	Eliud Mutali v Registrar Of Sports; George Wasonga(Interested Party) [2019] eKLR
Advocates:	-
Case Summary:	-
Court Division:	Tribunal
History Magistrates:	-
County:	Nairobi
Docket Number:	-
History Docket Number:	-
Case Outcome:	-
History County:	-
Representation By Advocates:	-
Advocates For:	-
Advocates Against:	-
Sum Awarded:	-

The information contained in the above segment is not part of the judicial opinion delivered by the Court. The metadata has been prepared by Kenya Law as a guide in understanding the subject of the judicial opinion. Kenya Law makes no warranties as to the comprehensiveness or accuracy of the information.

**REPUBLIC OF KENYA**

**THE JUDICIARY**

**IN THE SPORTS DISPUTES TRIBUNAL**

**APPEAL NO 28 OF 2018**

**BETWEEN**

**ELIUD MUTALI.....APPELLANT**

**AND**

**REGISTRAR OF SPORTS.....RESPONDENT**

**AND**

**GEORGE WASONGA.....INTERESTED PARTY**

**DECISION**

**Panel:**

1. John M Ohaga – Chairperson
2. Njeri Onyango – Member
3. Gichuru Kiplagat - Member

**APPEARANCES:**

Mr. Julius Juma, Advocate for the Appellant

No Appearance for the Respondent

Mr George Wasonga, Interested Party in person

**1. INTRODUCTION**

1.0. By a memorandum of appeal dated 10<sup>th</sup> December 2018, the Appellant has invited this Tribunal to acknowledge the election of the Appellant on 17<sup>th</sup> November 2012 and hold them as such valid officials of the federation for purposes of transition.

1.1. The appeal is further supported by the Affidavit of Eliud Mutali Wanyama sworn on 10<sup>th</sup> December 2018 together with annexures in support.

1.2. The Interested Party herein opposed the appeal by filing a replying affidavit sworn on 5<sup>th</sup> March 2019 together with annexures.

1.3. Before this Tribunal are also the affidavits of Suleiman Kanyanya Sumba, Linus Marangu Generald, Philip Khaemba Khakame, Harrison Rimba Kalama, Simon Muga Mirambe, Martin Wanyoni Malaba and Wilfred Odhiambo Musingo all sworn on 5<sup>th</sup> March 2019.

- 1.4. The parties also appeared before this Tribunal on diverse dates, and their testimonies and submissions taken.
- 1.5. This Tribunal, while setting the date for delivery of this decision, granted all parties herein the opportunity to file any additional documents.
- 1.6. The Tribunal has considered the parties' pleadings, submissions, documentation and applied the law to them in arriving at this decision.
- 1.7. At all times in this decision, the expression '*The Federation*' is used to mean Kenya Taekwondo Federation.
- 1.8. As this is the issue of contention between the parties herein, it is clear from the parties' respective pleadings and submissions that the main dispute relates to conflicting factions of leadership in the Federation. The Appellant- led faction, and the Interested Party- led faction are used to refer to the said conflicting factions.

## **2. THE PARTIES**

- 2.0. The Appellant, Eliud Mutali Wanyama describes himself as the duly elected Secretary General of the Kenya Taekwondo Federation (formerly Kenya Taekwondo Association). The Appellant was represented by the firm of Julius Juma & Co Advocates in these proceedings.
- 2.1. The Respondent's description has not been canvassed in the parties' pleadings. Nonetheless, it is an office within the Public Service established under Section 45 of the Sports Act No. 25 of 2013. The Respondent did not advance any position in this matter.
- 2.2. The Interested Party describes himself as the Secretary General of the Kenya Taekwondo Federation and acted in person in these proceedings.
- 2.3. The 1<sup>st</sup> Interested Party has been enjoined to this matter as he may be affected and has a sufficiently close interest in the outcome since they filed a Petition on the same matter.

## **3. FACTUAL BACKGROUND**

3.0. Below is a brief summary of the main facts in this matter based on the parties' pleadings and submissions before this Tribunal.

### **Appellant's case**

- 3.1. According to the Appellant, he is dissatisfied with the decision of the Respondent made and communicated to the Interested Party vide its letter dated 25<sup>th</sup> July 2018, and appeals such decision on the grounds summarized:
  - i. The Respondent addressed the said letter to the Interested Party, whose faction had lost elections in 2012 instead of addressing the Appellant as the validly elected official.
  - ii. The Respondent was aware that the Interested Party - led faction had challenged the Appellant 's said elections in court JR 442 of 2012 but still lost the suit.
  - iii. The Respondent's action purported to advance an illegality
  - iv. The Respondent relied on an alleged consent in Petition 116 of 2016
  - v. The Respondent's letter took away the Appellant 's popular mandate.
  - vi. The Respondent's letter purports to authorize the Interested Party to prepare the federation's constitution and strategic plan.

3.2. In support of his position, the Appellant swore an affidavit in which he affirmed his position and stated that the Respondent had refused to recognize the duly elected officials of the Federation despite their request for recognition, thereby making it difficult for them to comply with the Sports Act.

3.3. The Appellant further avers that the Respondent has colluded with the Interested Party and started the process of registering the Interested Party as officials of the federation.

3.4. The Appellant further seeks this Tribunal's intervention and order the Respondent to issue a Certificate to them as the elected officials.

#### **Respondent's case**

3.5. The Respondent in this matter- the Registrar of Sports did not put in any response to the appeal, neither did it appear before this Tribunal despite service of pleadings and a hearing notice having been effected.

3.6. This Tribunal shall consider the uncontested documents filed by the parties, originating from the office of the Respondent as its position in these proceedings.

#### **Interested Party's case**

3.7. According to the Interested Party - George Wasonga, he is the Secretary General of the Federation, and that the Federation was resultant of a merger of two factions.

3.8. It is the Interested Party's case that the Appellant has never been the Federation's secretary general. He contends that he had attended a meeting on 19<sup>th</sup> February which the Appellant did not attend despite being invited to attend, where the subject of merger had been discussed, and one Mr Musingo and another Mr Sumba were tasked with coming up with a merger plan and a list of interim officials.

3.9. The Interested Party contended that on 5<sup>th</sup> June 2018 they signed a consent which was filed in court on 20<sup>th</sup> June 2018.

3.10. In sum, the Interested Party contends that the respondent did not err in law or fact while addressing the impugned letter, and that his faction had not lost elections as alleged but had instead been duly elected on 28<sup>th</sup> May 2011 in an election presided over by the National Olympic Committee.

3.11. Further, it is the Interested Party's case that in a bid to solve the dispute, capacity building meetings were convened on 5<sup>th</sup> and 13<sup>th</sup> October 2016 co- chaired by the Appellant, which meetings unanimously agreed to form an interim committee to conduct an all- inclusive election and a constitution for the Federation.

3.12. The Interested Party finally urged this Tribunal to dismiss the appeal as the committee was ready to hold elections once issued with the Certificate of registration.

3.13. The Interested Party's position is further supported by affidavits as indicated in paragraph 1.3 hereinabove, the deponents stating that they are Chairman, Treasurer, 2<sup>nd</sup> Vice Chairman, Assistant Secretary General, Member, competitions secretary and 1<sup>st</sup> Vice Chairman respectively of the Federation's **interim committee** (Emphasis ours)

#### **4. TRIBUNAL'S DIRECTIONS**

4.0. This Tribunal on 14<sup>th</sup> December 2018 issued directions on this matter, directing the Appellant to serve the parties with his appeal, allowing parties to respond and directed the Respondent to refrain from taking any other step in the registration of officials of the Federation pending the hearing and determination of the matter.

4.1. The matter was mentioned on 5<sup>th</sup> March 2019 where both the Appellant and Interested Party attended but the Interested Party was not ready to proceed. The Tribunal directed both parties to serve the respondent and file appropriate affidavit(s) of service. This

Tribunal was then constituted, and the matter was adjourned to 19<sup>th</sup> March 2019.

4.2. On 19<sup>th</sup> March 2019, this matter came up for hearing, both the Appellant and Interested Party presented their cases and this Tribunal allowed either party to file any additional documentation.

4.3. The Appellant filed a Further affidavit sworn on 20<sup>th</sup> March 2019 while the Interested Party filed an additional bundle of documents.

## 5. **SUBMISSIONS**

5.0. On the said 19<sup>th</sup> March 2019, the parties herein had the opportunity to canvass their positions in the matter.

5.1. Mr Juma, Advocate for the Appellant submitted that the appeal was filed because the Respondent had declined to register the Federation with the Appellant as the Secretary General. He submitted that vide letter dated 5<sup>th</sup> December 2012, the Appellant had been confirmed as Secretary General.

5.2. He submitted that the matter before the High Court- JR 443 of 2012 had been filed by the persons who had lost the elections including the Interested Party, and as a result of a stay, the Appellant was not able to manage the affairs of the Federation and proceed with registration of the Federation under the Sports Act. He further submitted that the matter was dismissed, and the stay lapsed.

5.3. Mr Juma submitted that through the letter dated 25<sup>th</sup> July 2018, the respondent purported to recognize persons who it should not have.

5.4. He submitted that the Federation had been registered under the Societies Act on 17<sup>th</sup> September 1979.

5.5. It was submitted the Interested Party had influenced a member of Mr Musingo's team to sign the consent in the Constitutional Petition No. 166 of 2017. He further submitted that in the said consent, Jayne Kitale was replaced because she refused to be unduly influenced.

5.6. The Appellant submitted that to date, there had not been any other election, and the Appellant's election had never been challenged by any party, but unbeknown to the Appellant, the Interested Party proceeded to register another organization and filed the said petition to circumvent the previous matter- JR 442 of 2012 which had been dismissed.

5.7. Mr Juma submitted that the Interested Party having lost the election in 2011, there had never been elections whose officials can be recognized. He urged this Tribunal to recognize the officials as at 5<sup>th</sup> December 2012.

5.8. In response thereto, it was the Interested Party's submission that the Appellant was not elected in 2012 as there were elections only on 28<sup>th</sup> May 2011 when the Appellant was elected as Secretary General unopposed. Prior to the said elections, he submitted that a notice had been issued 27<sup>th</sup> April 2011 to all media houses.

5.9. It was Mr George Wasonga's submission that a meeting was held on 13<sup>th</sup> October 2016 where an interim committee was formed with the Appellant and Interested Party as co- secretary general.

5.10. The Interested Party urged the Tribunal to dismiss the appeal as it had been brought in bad faith, and that they were willing to bring the matter to an end.

## **Further Pleadings**

5.11. The Appellant filed a Further affidavit to clarify the circumstances under which their faction got elected into office. He deposed that whereas the Appellant - led faction had been elected in 2011, the Executive Committee had on 17<sup>th</sup> November 2011 resolved to suspend the faction's Chairman and vice chairman (now deceased) over their conduct in the Maputo games in 2011, which resolution was communicated by the Interested Party.

5.12. The Appellant further deponed that on 22<sup>nd</sup> February 2012 the executive committee resolved to suspend the Interested Party over bringing the Federation into disrepute, which suspension was confirmed on 31<sup>st</sup> May 2012 by the National Sports Council.

5.13. It was the Appellant 's position that his faction was resultantly ratified by the Federation's Special General meeting of 17<sup>th</sup> November 2012, and on 5<sup>th</sup> December 2012, the Respondent issued a letter confirming the new officials.

5.14. The Appellant also filed a set of documents to support his disposition.

5.15. The Interested Party equally filed a set of documents including a letter dated 26<sup>th</sup> April 2017 from the Ministry of Sports whereupon it was indicated that the Federation was ineligible to participate in the NOCK- K elections since it had two factions, were not registered and therefore operating illegally.

5.16. Further to the letter, was another dated 18<sup>th</sup> April 2017 from the Respondent which confirmed that the Federation had been denied registration due to double registration.

## **6. ISSUES FOR DETERMINATION**

6.0. Upon perusing the respective pleadings and hearing the submissions by the parties, we consider that the following issues necessary for determination:

(i) Whether this Tribunal has the requisite jurisdiction to determine this matter

(ii) Whether the respondent erred in addressing the Interested Party vide letter dated 25<sup>th</sup> July 2018

(iii) Whether the Appellant and his faction are the validly elected officials of the Kenya Taekwondo Federation.

6.1. Before delving into the above issues of determination, we hereby analyse the matter in relation to the issues of determination, and with respect to the important issues not contested by the parties:

### **Analysis**

6.2. The Federation was first registered under the Societies Act on 17<sup>th</sup> September 1979 and issued with a Certificate Number 9979.

6.3. On 28<sup>th</sup> May 2011, the Federation elections were held, and the Interested Party elected Secretary General unopposed. Also elected was Suleiman Sumba as Chairman, George Muriu as 2<sup>nd</sup> Vice Chairman, Simon Mbutu as 1<sup>st</sup> Vice Chairman and Jayne Francis Kitale as Treasurer. These elections were confirmed by the National Sports Council vide its letters of 5<sup>th</sup> and 9<sup>th</sup> January 2012 addressed to NOCK and World Taekwondo Federation respectively.

6.4. It is stated that the said Suleiman Sumba, George Muriu and the Interested Party were variously suspended over fraud allegations and by 5<sup>th</sup> and 24<sup>th</sup> December 2012, Wilfred Musigo, Herbert Oholi and the Appellant were recognized by the State Law office as Chairman, Vice Chairman and Secretary General, nonetheless retaining Jayne Francis Kitale as the Treasurer. This decision is said to have been challenged in the High Court Judicial Review 442 of 2012 by the Interested Party, which suit was dismissed for want of prosecution on 29<sup>th</sup> September 2017.

6.5. It is stated that on 13<sup>th</sup> October 2016, a meeting dubbed Capacity Building Committee meeting jointly chaired by the Appellant and the Interested Party was held whereupon the attendees agreed to have an interim committee with Suleiman Sumba and Bobby Musingu as co-Chairs, while the Appellant and interested parties were held to be co- secretary generals. It was further resolved that the rival factions had put aside their differences.

6.6. A suit was then filed in 2017- Constitutional Petition 166 of 2017 where consents are said to have been filed on 20<sup>th</sup> June 2018 and 5<sup>th</sup> November 2018 whereupon Suleiman Sumba, Wilfred Musingu, and the Interested Party were proposed to be President, Vice President and Secretary General respectively. The consents were signed by the once rival Suleiman Sumba and Wilfred Musingu. These had been proceeded by the Respondent's letter of 10<sup>th</sup> January 2018 urging the parties to merge the rival factions to

avoid non participation in the Commonwealth Games.

6.7. On 25<sup>th</sup> July 2018, the Respondent addressed a letter to the Secretary of the Federation requiring him to pick a fresh application form for registration and fill it to reflect the interim officials in terms of the consent. The Respondent further requested the officials to embark on the process of reviewing the organization's constitution and strategic plans. The Respondent finally urged the officials to expedite to enable her to issue the Federation with a Registration Certificate.

6.8. On 13<sup>th</sup> November 2018, the Respondent acknowledged receipt of an application for registration of the Federation.

6.9. A suit, JR 322 of 2018 was filed by the Federation against the Respondent herein on 2<sup>nd</sup> August 2018 and was dismissed for non-prosecution and incompetence on 5<sup>th</sup> December 2018.

6.10. The Appellant challenges the Respondent's decision in the letter referred to under Paragraph 6.7 herein.

6.11. As it stands, the Federation is not registered in a manner compliant with the Sports Act No 25 of 2013.

6.11.1. This Tribunal has also taken judicial notice of the fact that, at the time of this decision, the Federation is a member of the World Taekwondo Federation, having been affiliated in the year 1990; and the officials registered under [http://www.worldtaekwondo.org/about-wt/members/mna/"member\\_id=4203](http://www.worldtaekwondo.org/about-wt/members/mna/) are Major Suleiman Kanyanya Sumba as President and Mr. George Oyoo Wasonga, the Interested Party herein as the Secretary General.

#### **7. Whether this Tribunal has the requisite jurisdiction to determine this matter and whether the Appeal is competent**

7.0. The jurisdiction of this Tribunal is invoked under Section 58 of the Sports Act No 25 of 2013 being an appeal on the decision of the Registrar.

7.1. Neither the Respondent nor the Interested Party have contested the jurisdiction of this Tribunal.

7.2. This Tribunal herewith discloses that the meeting of 28<sup>th</sup> May 2011 where the Interested Party was elected as Secretary General was attended by among others; one of us (Mrs Njeri Onyango) as reported by the Returning Officer in the letter dated 2<sup>nd</sup> June 2011. We also note that the said elections are not in dispute and had been conceded by the Appellant's further affidavit of 20<sup>th</sup> March 2019.

7.3. We find that the said member of this Tribunal attended the meeting, but never participated in the said elections. This matter was never raised by either party, and we do not find any reason to delve into it. We find that this Tribunal is properly constituted for this purpose.

7.4. Section 58 of the Sports Act is couched in the following terms:

The Tribunal shall determine—

(a) appeals against decisions made by national sports organizations or umbrella national sports organizations, whose rules specifically allow for appeals to be made to the Tribunal in relation to that issue including

i. appeals against disciplinary decisions;

ii. appeals against not being selected for a Kenyan team or squad;

(b) other sports-related disputes that all parties to the dispute agree to refer to the Tribunal and that the Tribunal agrees to hear; and

**(c) appeals from decisions of the Registrar under this Act.**

7.5. The jurisdiction of this Tribunal has been reiterated by courts. In the case of **Dennis Kadito v Office of The Sports Disputes Tribunal & another [2017] eKLR**, this Tribunal's jurisdiction was upheld and the provisions of Section 58 of the Sports Act were held to be constitutionally valid.

7.6. The courts have also not hesitated to find that this Tribunal lacks jurisdiction where it indeed lacks, as was in the case of **Republic v Sports Disputes Tribunal & 3 others Ex-parte Moses Adagala & 2 others (suing as officials of Muhoroni Youth Football Club) [2018] eKLR** where the Employment and Labour Court held that this Tribunal lacked jurisdiction, and it could not therefore expand its jurisdiction through judicial craft or innovation.

7.7. In the case of **Secretary, County Public Service Board & another v Hulbhai Gedi Abdille, Civil Appeal No. 202 of 2015**, where this Court stated,

*"Time and again it has been said that where there exists other sufficient and adequate avenue or forum to resolve a dispute, a party ought to pursue that avenue or forum and not invoke the court process if the dispute could very well and effectively be dealt with in that other forum. Such party ought to seek redress under the other regime."* and so we say.

7.8. We do find that the Jurisdiction of this Tribunal has been rightly invoked and this Court can therefore proceed to make further steps in the terms of the celebrated case of **The Owners of the Motor Vessel Lilian 'S' v. Caltex Kenya Limited (1989) KLR 1**.

7.9. A surprising feature of the appeal was that the Appellant elected to commence and maintain these proceedings in his own name. He says, however, that he has brought the proceedings on behalf of the other officials of the Federation.

7.10. The Appeal is therefore not brought by the Federation but by an individual who claims to act on behalf of other officials but which officials are not identified.

7.11. The question must therefore arise as to whether an individual is competent to challenge the decision of the Registrar with respect to registration of a Federation.

7.12. On the other hand, the Appellant has, in challenging the decision of the Registrar, also named an individual, George Wasonga, as an Interested Party.

7.13. The content therefore appears to the Tribunal to be between two individuals who seek the control of the Federation.

7.14. This is an unfortunate feature of sports governance and sports disputes in Kenya. Too often, individuals see federations as their personal property to be controlled and used as they see fit with no consideration for the interests of the athletes for whose benefit these federations are intended to exist.

7.15. The Tribunal will not countenance this. Where disputes of this nature exist, they must be shown to be bona fide disputes brought for the benefit of the federation and the athletes who play the particular sport and not ego fights for the control of a federation.

7.16. The present dispute falls in the latter category and cannot expect the benefit of the Tribunal's endorsement.

## **8. Whether the respondent erred in addressing the Interested Party vide letter dated 25<sup>th</sup> July 2018**

8.0. It is the Appellant's case that the Registrar of Sports, the Respondent herein should not have invited the Interested Party to take steps to register the Federation as required by the Sports Act and the Sport Registrar's regulations.

8.1. It is this Tribunal's understanding that the Appellant contests the said invitation since it was based on a consent purported to have been filed in High Court Constitutional petition 166 of 2017. The Appellant's position is that such consent unlawful and acting on it was an action to endorse an illegality.

8.2. We have analysed and considered the circumstances under which the consent was filed in court, and the Appellant's



contention that the parties who had filed executed the same had been 'poached' by the rival faction.

8.3. This Tribunal agrees with the Appellant that a party cannot purport to benefit from an illegality; in other terms, provided the said consent is invalid, then this Tribunal should find that the resultant action is invalid. What appears to be in contest is a consent judgment which must have disposed of the said Petition 166 of 2017. The Appellant in our opinion appears to invite this Tribunal to set aside the said consent judgment.

8.4. It is trite law that a consent judgement can only be set aside in circumstances similar to those that can vitiate a contract. These are fraud, or collusion, misrepresentation of facts; agreement contrary to public policy or consent was given without sufficient material facts or in his application or ignorance of material facts or in general, for a reason, which would enable the Court set aside an agreement. We take this position and find that this is the sound position, as was similarly held in the case of **Hirani vs Kassam (1952) 19 EACA 31**.

8.5. The Appellant herein has attributed its submission of the invalidity thereof to members of his faction who had been unduly influenced to sign it.

8.6. However, this Tribunal has no jurisdiction to address itself on the validity thereof. We hold that the right forum that the Appellant would have sought the setting aside thereof is the said Court by way of a review under Section 80 of the Civil Procedure Act and Order 45 of the Civil Procedure Rules, or by way of an appeal to the Court of Appeal under Section 3 of the Appellate Jurisdiction Act. We therefore decline the invitation to set aside the so purported consent.

8.7. As to whether the Registrar acted rightly, we agree with the Appellant that in the event the registrar acts beyond her power, this Tribunal should not hesitate to set aside such a decision.

8.8. Section 45 of the Sports Act provides for the Sports Registrar as follows:

45. Sports Registrar

(1) There shall be an office of the Sports Registrar which shall be an office

within the Public Service.

(2) The Public Service Commission shall appoint the Sports Registrar who shall

be—

(a) in charge of the office of the Sports Registrar;

**(b) responsible for the registration and regulation of sports organizations and multi-sports bodies representing sports organizations at the national level, in accordance with the provisions of this Act;**

(c) responsible for the matters relating to the licensing of professional sports and professional sports persons in accordance with the provisions of this Act; and

(d) responsible for the arbitration of registration disputes between sports organizations.

**(3) The Registrar shall keep and maintain a register of the registered sports organizations and such other particulars relating to the registered sports organizations as may be prescribed.**

(4) The Registrar shall issue licences for professional sports in accordance with the regulations and the requirements that the Cabinet Secretary may prescribe and any other relevant law.

(5) A copy of an entry in the register certified by the Registrar shall, for purposes of any written law, be prima facie evidence of the facts stated in the certificate.

8.9. The Respondent herein is undoubtedly clothed with the register and regulates sports organizations in accordance with the Sports Act and also keeps and maintains a register of the registered sports organizations and their particulars. In exercising such power, we find that the Registrar is bound to ensure that there is no double registration.

8.10. The Registrar in performing its duties, is further empowered to reject the application for registration.

8.11. Regulation 5 of the Sports Registrar Regulations, 2016 provides as follows with respect to the Registrar's powers:

5. Power of the Registrar

1) Upon considering an application for registration of a body as a sports organization,

the Registrar may—

(a) issue a certificate of registration subject to conditions; or

(b) reject the application for registration in the Form C set out in the First Schedule and indicate the reasons thereof.

8.12. Albeit the uncertainty, we find that the Registrar had received applications for registration from rival factions under the auspices of the Kenya Tae Kwondo Federation and the Kenya Taekwondo Federation and rejected the said applications. The Registrar's concern was the lack of representation in the commonwealth games and was thus desirous of having a compliant federation for the discipline of Taekwondo. We find no error in fact, or in law in this action.

8.13. In our view, we do not see the cause for the Appellant's apprehension. In any event, the said letter of 25<sup>th</sup> July 2018 was addressed to the Secretary of the Federation, and not addressed to any individual.

8.14. This Tribunal had stayed any process of registration, and we hold that the same should now proceed, at any rate under this Tribunal's terms.

8.15. This Tribunal agrees that leadership wrangles in sports should not be visited upon the very good foundation of sportsmanship. We hold that Sports management and leadership, like any institution in the arena of public governance, should be inclusive, open and accountable. Sports are not to be played out in court rooms or before Tribunals. For the benefit of those Kenyans who are Sportsmen and women, for those Kenyans who are ardent lovers of sport, for the sake of those youngsters whose talents require to be harnessed, the courts need to firmly tell the administrators of sports organizations that, the place of sports is in the fields and stadiums not in court rooms. Of course, where there are genuine grievances, the courts will be able, ready and willing to swiftly adjudicate on them if only to bring normalcy in the administration of any particular sport.

8.16. Mr Wasonga, the Interested Party herein has been involved in the Sport of Taekwondo for a while, and so has Mr Wanyama. The parties had at one particular time co- chaired a committee that even saw a successful participation in the World Junior Taekwondo Championship and even the appointment of a Junior National Team coach for Kenya. At some point, they even agreed to jointly take up the initiative to register and manage the Federation. We find no reason why they should not unite and move the sport of Taekwondo to the next level.

8.17. In sum, we find that the Registrar's letter of 25<sup>th</sup> July 2018 was proper in the circumstances.

**9. Whether the Appellant and his faction are the validly elected officials of the Kenya Taekwondo Federation.**

9.0. It is this Tribunal's finding that there had never been any valid elections since 5<sup>th</sup> December 2012. We do not find any reason to address ourselves on this issue, as its answer flows from the final determination of this matter.

9.1. We nevertheless hold that an election is only valid once a sports organization is registered. Regulation 6 of the Sport's Registrar Regulation of 2016 states in no uncertain terms thus,

**'sports organization shall hold elections within ninety days from the date of the registration and shall furnish the Registrar with the change of particulars within thirty days.'**

9.2. We hold that the Federation should first pursue its registration and thereafter hold its elections in compliance with the above provisions.

## **10. DETERMINATION**

10.1 The orders that commend itself to us in view of the forgoing is that the Appeal is incompetent and is without proper basis and is accordingly dismissed;

10.2 Each party shall bear its own costs.

**Dated at Nairobi this 26<sup>th</sup> day of *March*, 2019**

**John M. Ohaga, Chairperson**

**Gilbert M T Ottieno , Member E. Gichuru Kiplagat, Member**



While the design, structure and metadata of the Case Search database are licensed by [Kenya Law](#) under a [Creative Commons Attribution-ShareAlike 4.0 International](#), the texts of the judicial opinions contained in it are in the [public domain](#) and are free from any copyright restrictions. Read our [Privacy Policy](#) | [Disclaimer](#)