

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
MISCELLANEOUS APPLICATION NO. 335 OF 2012

KAMURALI JEREMIAH BIRUNGI :::::::::::::::::::::APPLICANT

VERSUS

NATIONAL RESISTANCE MOVEMENT & ANOR::::::::::RESPONDENT

BEFORE: HON. LADY JUSTICE ELIZABETH MUSOKE

RULING

This is an application brought under Rule 4 of the J (CV) Rules and Order 52 rule 1 of Civil Procedure Rules seeking orders that a certificate of urgency be issued for hearing MC 95 of 2012 in court vacation, and that costs be provided for.

The grounds on which the application is premised are that the matter in MC 95/2012 is urgent since it seeks to annul the elections conducted under the NRM primaries leading to the Parliament of Uganda's election of six NRM candidates as members of the East African Legislative Assembly.

Whereas in this application cannot be heard without a certificate of urgency in line with Rule 4 of the Judicature (Court Vacation) Rules, it would be injurious to the entire region if such persons not duly elected accordance with Article 50 of the East African Treaty and Rules 13(2) of the National Assembly rules, as amended, continued to illegally enjoy tax payers' money without the legality of their existence as members having been determined.

This application is supported by the affidavit of the applicant, who stated under Paragraph 3 thus:

“That Miscellaneous Cause No. 095 of 2012 requires urgent attention since the impugned members of East African Legislative Assembly continue to enjoy tax payers money from the East African Community yet their election is being challenged on the ground that they were elected contrary to Article 1 of the Treaty and laws relevant thereto.”

In his submissions, Mr. Kamba Hassan, for the applicant stated that Article 1 of the East African Treaty provides that a member of East African Legislative Assembly is one elected in accordance with Article 50 of the

Treaty for the Establishment of the East African Community. If not elected according to that Article, then they are in Arusha illegally.

Counsel concluded by praying that this being a matter of public importance, and a matter which each day that passes causes injury to society, it be considered by court as an urgent matter requiring court's attention.

I have carefully examined the application and the main cause. My view is that there is no urgency involved in the Main Cause, since it involves internal NRM party challenges relating to nomination of candidates to the East African Legislative Assembly.

Since the application is not challenging the National Assembly elections, it is highly unlikely that it will upset the elections to the East African Legislative Assembly; and even it were to do so, it can wait until after the vacation.

Secondly, the decision that the main cause intends to quash under Orders of Certiorari was not attached to the Notice of Motion. It therefore appears incomplete.

All in all, the application for certificate of urgency is not granted as there is no urgency detected in the main application.

Elizabeth Musoke

JUDGE

18/7/2012