

REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA AT NAIROBI  
PETITION NO.....OF 2007

IN THE MATTER OF: SECTIONS 1, 1A, 3, 5, 34 AND 84 OF THE CONSTITUTION OF KENYA

AND

IN THE MATTER OF : THE NATIONAL ASSEMBLY AND PRESIDENTIAL ELECTIONS ACT (CHAPTER 7 OF THE LAWS OF KENYA)

AND

IN THE MATTER OF: ALLEGED CONTRAVENTION AND/OR APPREHENDED CONTRAVENTION OF FUNDAMENTAL RIGHTS AND FREEDOMS UNDER SECTIONS 1, 1A, 3, 5 (3) (a) AND (b), 34 (d) 70, 71, 77, 80 and 82 OF THE CONSTITUTION OF KENYA

BETWEEN:

KAMAU KING'ARA.....1<sup>ST</sup> PETITIONER/APPLICANT

MUTHOMI THIANKOLU.....2<sup>ND</sup> PETITIONER/APPLICANT

AND

SAMUEL MUTUA KIVUITU.....1<sup>ST</sup> RESPONDENT

THE ELECTORAL COMMISSION OF KENYA .....2<sup>ND</sup> RESPONDENT

THE ATTORNEY GENERAL .....3<sup>RD</sup> RESPONDENT

CERTIFICATE OF URGENCY

I KIIRU PAUL THUITA an advocate of this Honourable Court practicing as such under the Firm of Kiiru Wainaina and Company Advocates do hereby Certify this application as extremely urgent and hence deserving to be heard on priority basis on the following grounds namely:-

- 1 The 1<sup>st</sup> and 2<sup>nd</sup> Respondents intend to conduct this year's General Election in flagrant breach of express provisions of the Constitution of Kenya including *inter alia* sections 5 (3) (a) and (b) as read with 34 (d) and 82 thereof.
- 2 Observance of the laws of the land in the conduct of this year's General Election and in particular observance of the provisions of the Constitution of Kenya is a matter of utmost public interest warranting the immediate intervention of this Honourable Court.
- 3 The Respondents' flagrant disregard and or disrespect of express constitutional provisions in the conduct of this year's General Election will occasion an iniquitous infringement and

violation of the Petitioners' and other Kenyans fundamental and inalienable rights and freedoms.

- 4 The Petitioners' insistence on strict observance of the provisions of the Constitution of Kenya and the National Assembly and Presidential Elections Act in the conduct of this year's General Election has exposed the Petitioners to death threats from anonymous persons describing themselves as "friends of the Government."
- 5 The Petitioners reasonably apprehend that the 1<sup>st</sup> and 2<sup>nd</sup> Respondents will conduct this year's General election in flagrant breach of the letter and spirit of the Constitution of Kenya and in particular with sections 1, 1A, 3, 5 (3) (a) and (b) and 34 (d) thereby infringing the Petitioners and other Kenyans' fundamental and inalienable rights to *inter alia* a free and fair General Election and a multiparty democratic system of government.
- 6 The Petitioners reasonably apprehend that the 1<sup>st</sup> and 2<sup>nd</sup> Respondents will conduct this year's General election in flagrant breach of the letter and spirit of the National Assembly and Presidential Elections Act and in particular with section 17 and Regulation 11 of the *Presidential and National Assembly Regulations*.

Kiiru Wainaina & Co  
**ADVOCATES FOR THE PETITIONERS**

**DRAWN & FILED BY:**

Kiiru Wainaina & Co  
Advocates  
7<sup>th</sup> Floor Solar House  
P. O. Box 58854-00200  
Nairobi

**TO BE SERVED UPON:**

Samuel Mutua Kivuitu  
C/o the Electoral Commission of Kenya  
6<sup>th</sup> Floor Anniversary Towers  
University Way  
P. O. Box 45371  
Nairobi

The Electoral Commission of Kenya  
6<sup>th</sup> Floor Anniversary Towers  
University Way  
P. O. Box 45371  
Nairobi

The Attorney General  
State Law Office  
Sheria House  
Harambee Avenue  
P. O. Box 40112  
Nairobi