



REPUBLIC OF KENYA

IN THE SUPREME COURT OF KENYA AT NAIROBI

(Coram: Koome; CJ & P, Mwilu; DCJ & VP, Njoki, Lenaola & Ouko, SCJJ)

PETITION NO. E017 OF 2023

– BETWEEN –

HASSAN MOHAMMED ADAM APPELLANT

– AND –

AHMED ABDULLAHI JIIR 1ST RESPONDENT

AHMED MUHUMED ABDI 2ND RESPONDENT

THE INDEPENDENT ELECTORAL

AND BOUNDARIES COMMISSION..... 3RD RESPONDENT

COUNTY RETURNING OFFICER,

WAJIR COUNTY, MOHAMED ADAN ALI 4TH RESPONDENT

(Being an appeal from the Ruling of the Court of Appeal at Nairobi (Musinga (P), Omondi & Ngenye, JJ.A.) dated 24th July, 2023 in Election Petition Appeal No. E008 of 2023)

Representation:

Mr. Kioko Kilukumi, SC, Mr. Paul Nyamodi,
Mr. Issa Mansur & Mr. Sallah for the appellant
(Sallah & Company Advocates)

Prof. Tom Ojienda, SC, Mr. Omwanza Ombati
& Ms. Cecilia Misiati for the 1st and 2nd respondents
(Nchogu, Omwanza & Nyasimi Advocates)

Mr. Mahat Somane & Mr. Hassan Nura for the 3rd and 4th respondents
(*Garane & Somane Advocates*)

EX TEMPORE JUDGMENT OF THE COURT
(*Under Rule 28(2) of the Supreme Court Rules, 2020*)

[1] The appellant’s Petition of Appeal dated 31st July, 2023 against the Ruling of the Court of Appeal dated 24th July, 2023 in **Election Petition Appeal No. E008 of 2023**; and the 1st and 2nd respondents’ Notice of Motion dated 11th August, 2023 challenging this Court’s jurisdiction to entertain the appeal lodged under Article 163(4)(a) of the Constitution came up for hearing before this Court yesterday, 7th September, 2023.

[2] Taking into account the importance of expeditious settlement of electoral disputes as prescribed under Article 87(1) of the Constitution, the Court at the commencement of the hearing directed that both the appeal and the notice of motion be heard together. For the same reason, this judgment is rendered *ex tempore* pursuant to Rule 28(2) of the Supreme Court Rules, 2020.

[3] Having considered the appeal, the notice of motion and the parties’ respective submissions thereto, as advanced by their respective advocates on record, we find no justifiable reasons to interfere with the Ruling of the Court of Appeal. Accordingly, the appellant’s appeal is hereby struck out with costs to the respondents.

[4] Consequently, we issue the following Orders:

- i. The Petition of Appeal dated 31st July, 2023 and filed on even date is struck out.***
- ii. The detailed reasons of this ex tempore Judgment will be issued on notice.***

iii. Costs are awarded to the respondents.

It is so ordered

DATED and DELIVERED at NAIROBI this 8th day of September, 2023.

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M. K. KOOME
CHIEF JUSTICE & PRESIDENT OF
THE SUPREME COURT

.....
P.M. MWILU
DEPUTY CHIEF JUSTICE &
VICE PRESIDENT OF THE
SUPREME COURT

.....
NJOKI NDUNGU
JUSTICE OF THE SUPREME COURT

.....
I. LENAOLA
JUSTICE OF THE SUPREME COURT

.....
W. OUKO
JUSTICE OF THE SUPREME COURT

I certify that this is a true copy
of the original

REGISTRAR
SUPREME COURT OF KENYA