



IN THE EAST AFRICAN COURT OF JUSTICE AT ARUSHA

FIRST INSTANCE DIVISION

(Coram: Monica K. Mugenyi, PJ; Isaac Lenaola, DPJ; and Fakihi A. Jundu, J)

APPLICATION NO. 05 OF 2015

(Arising from Reference No. 2 of 2015)

EAST AFRICAN CIVIL SOCIETY ORGANISATIONS FORUM

(EACSOFF) APPLICANT

VERSUS

- 1. ATTORNEY GENERAL OF BURUNDI**
- 2. COMMISSION ELECTORALE NATIONALE INDEPENDENTE (CENI)**
- 3. SECRETARY GENERAL,
EAST AFRICAN COMMUNITY RESPONDENTS**

RULING OF THE COURT

- 1. On 6th July 2015 the Applicant filed Reference No. 2 of 2015 EACSOFF vs. Attorney General of Burundi and 2 Others, as well as the present Application before this Court.**
- 2. The Application sought interim orders pending the hearing of Reference No. 2 of 2015. It specifically sought orders for the stay of Decree No. 100/177 of the 9th June 2015 that postponed the Presidential and Senatorial Elections to 15th and 24th June 2015 respectively, as well as the decision of the Second Respondent dated 12th June 2015 that apparently approved the nomination of Mr. Pierre Nkurunziza as a candidate in the Presidential Election. The Application further sought an order directing the Second Respondent and the Government of the Republic of Burundi to postpone the Presidential and Senatorial Elections.**

3. The Application is *inter alia* premised on the grounds that, in the absence of interim orders, Mr. Pierre Nkurunziza would run for a purportedly unconstitutional 3rd term of office, yet the procedure used by the Second Respondent to accept his nomination ran afoul of the Constitution of Burundi and the Arusha Peace and Reconciliation Agreement for Burundi, 2000.
4. On 14th July 2015, the Application was heard *ex parte* but the Court declined to grant the Orders sought. It transpired that the Burundi Presidential Election had been postponed to 21st July 2015 therefore the Court did *inter alia* order that the Application be heard *inter partes* today.
5. The grant of interim orders before this Court is governed by Article 39 of the Treaty for the Establishment of the East African Community as read together with Rule 21 of the East African Court of Justice (EACJ) Rules of Procedure. Article 39 reads:

“The Court may, in a case referred to it, make any interim orders or issue any directions which it considers necessary or desirable.”
6. Rule 68(2) and (3) of the same Rules mandates this Court to deliver its decision and not the reasons therefor upon the close of a hearing. It reads:
 - (2) **At the close of the hearing the Court may give its judgment at once or on some future date which may be appointed then or subsequently notified to the parties.**
 - (3) **The Court may, in any particular case, direct that only the decision of the Court and not the reasons for it shall be delivered in Court. The reasons for judgment shall be delivered on a date to be notified by the Registrar to the parties.”**
7. Given the time constraints, the Presidential Election having been scheduled for tomorrow 21st July 2015, we do hereby exercise our discretion to invoke the provisions of Rule 68(3) of the EACJ Rules and pronounce our decision in the present Application while reserving our reasons therefor to be delivered upon notice to the Parties.
8. We have carefully scrutinized the pleadings that were filed in this Application. We did also carefully listen to Learned Counsel for the Applicant and First Respondent herein. In our considered view, it is neither judicious nor necessary or desirable to issue the interim orders sought in this Application. We would therefore disallow the Application.
9. It is so ordered.

Dated at Arusha this 20th day of July 2015.

HON. LADY JUSTICE MONICA K. MUGENYI
PRINCIPAL JUDGE

HON. JUSTICE ISAAC LENAOLA
DEPUTY PRINCIPAL JUDGE

HON. JUSTICE FAKIHI A. JUNDU
JUDGE