



THE REPUBLIC OF UGANDA

**THE COURT OF APPEAL OF UGANDA
AT KAMPALA**

(Coram: Buteera; DCJ, Bamugemereire & Mugenyi JJ~~CO~~)

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ELECTION PETITION APPEAL NO. 5 OF 2023

1. AGABA GILBERT
2. LOLEM JOSEPHINE
3. NAKITENDE SALAAMA ADELAIDE
4. BWENGYE LAUBEN MUHANGI APPELLANTS

VERSUS

1. ATTORNEY GENERAL
2. HON. AMONG ANNET ANITA
3. ADOLF MWESIGE KASAIJA
4. AKOL ROSE OKULLU
5. NAMARA DENNIS
6. KAKOOZA JAMES
7. ODONGO GEORGE STEPHEN
8. MUSAMALI PAUL MWASA
9. KADOGO VERONICA BABIRYE
10. MUGYENYI MARY MUTAMWEBWA
11. AMONGIN JACQUELINE
12. SIRANDA GERALD BLACKS RESPONDENTS

(Appeal from Ruling of the High Court of Uganda at Kampala (Singiza, Ag. J) in
Election Petition No. 2 of 2022)

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JUDGMENT OF MONICA K. MUGENYI

A. Introduction

1. Mr. Gilbert Agaba, Ms. Josephine Lolem, Ms. Adelaide Salaama Nakitende and Mr. Lauben Muhangi Bwengye ('the Appellants') were candidates in the election of Uganda's representatives to the East African Legislative Assembly (EALA) that took place on 29th September 2022. The Appellants competed against Ms. Rose Akol Okullu, Mr. Dennis Namara, Mr. James Kakooza, Mr. George Stephen Odongo, Mr. Paul Mwasa Musamali, Ms. Veronica Babirye Kadogo, Ms. Mary Mutamwebwa Mugenyi, Ms. Jacqueline Amongin and Mr. Gerald Blacks Siranda ('the Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh and Twelfth Respondents' respectively).
2. Upon conclusion of the election, the Speaker of the Ugandan Parliament, Hon. Anita Annet Among ('the Second Respondent') declared the Fourth to Twelfth Respondents as Uganda's duly elected representatives to the EALA, which result was subsequently published by the Clerk to Parliament, Hon. Adolf Mwesige Kasajja ('the Third Respondent') in the Uganda Gazette of 30th September 2022.
3. Dissatisfied with the election result, the Appellants filed Election Petition No. 2 of 2022 at the High Court of Uganda sitting at Kampala ('the Trial Court') contesting the manner in which the election was conducted for purportedly violating the Treaty for the Establishment of the East African Community ('the Treaty'), the East African Legislative Assembly Elections Act, 2011 ('the EALA Elections Act') and the Ugandan Constitution. At the hearing of the petition, the Respondents jointly raised three preliminary objections to the effect that:
 - (a) The trial court did not have jurisdiction to entertain matters that touched on the interpretation of the EAC Treaty.
 - (b) The Second and Third Respondents had been wrongfully sued as parties to an election petition.
 - (c) The Appellants' additional affidavits, which had been filed after the closure of pleadings, were improperly before the court.