

5

THE REPUBLIC OF UGANDA
IN THE CONSTITUTIONAL COURT OF UGANDA AT KAMPALA

CONSTITUTIONAL APPLICATION NO. 06 OF 2013
(Arising out of Constitutional Petition No. 02 of 2013)

10

DAVIS WESLEY TUSINGWIRE:::::::::::::PETITIONER
VERSUS
THE ATTORNEY GENERAL:::::::::::::RESPONDENT

15

CORAM: HON. JUSTICE S.B.K.KAVUMA AG.DCJ/PCC ✓
HON. JUSTICE A.S.NSHIMYE, JA/CC.
HON. JUSTICE REMMY KASULE, JA/CC.

20

RULING OF COURT

Introduction

25

This application is brought by way of Notice of Motion under **Rule 23(1) Constitutional Court (Petitions and References) Rules, Sections 64(c), (e) and 98 of the Civil Procedure Act (CPA) Cap 71**, of the Laws of Uganda, **Rules 2(2), 43(1)(2) and 44 of the Judicature (Court of Appeal Rules) Directions** seeking orders that:

30

5 a) **Criminal proceedings in the Anti-Corruption
Division of the High Court at Kololo before and
arising from the Chief Magistrate and Grade I
Magistrates be stayed pending hearing and final
determination of Constitutional Petition No. 2 of
10 2013.**

b) Costs of this Application be provided for.

Grounds

15 The grounds for the application are briefly set out in the
Notice of Motion thus:

- **“Constitutional Petition No. 2 of 2013 which was
filed in this Court seeking declarations and orders
to the effect that the exercise of judicial duties in
20 the Anti-Corruption Division of the High Court
(*hereinafter for brevity’s sake referred to as (ACD)*)
by Chief Magistrate and Grade 1 Magistrate is
unconstitutional is pending hearing and final
determination.**

- 5 • the Petition raises substantial grounds requiring Constitutional Interpretation and it discloses a prima facie case with a high likelihood of success,
- irreparable, immeasurable and incalculable damage and injury shall be suffered by the Complainants, Accused persons and the Government if Magistrates continue to conduct trials which are a nullity,
- 10
- no prejudice, risk or danger is presented if the trials before and arising from the Magistrates in the ACD are stayed pending hearing and final determination of the main petition because the trials may resume or restart depending on the outcome of the petition,
- 15
- this application serves a correctional purpose to restore the supremacy of the Constitution, redeem and constitutionally re-align the judicial process at the ACD and it is in the public interest that it be granted as sought.
- 20
- it is therefore safe, prudent and in the interest of the administration of justice that proceedings of the said Magistrates be stayed until the hearing and final determination of the main petition.”(sic)
- 25

5 **Legal Representation**

At the hearing of the application, counsel Fred Muwema, appearing together with Mr. Richard Mulema Mukasa, (counsel for the applicant), represented the applicant.

Mr. Philip Mwaka, Principal State Attorney, (counsel for the
10 respondent), represented the respondent.

The evidence

The evidence in the application was by way of affidavits sworn and filed into court for the respective parties.

15 The application is supported by the affidavit of the applicant sworn on the 20th Day of February 2013 where he avers, *inter alia*, as follows:

• **“That on the 7th February 2013, I filed a Constitutional Petition in this Honourable
20 Court against the Attorney General seeking the following declarations and Orders;**

i. Directions 2, 8 and 10 of the impugned Directions which provide for the appointment to and exercise

5 of judicial duties by the Chief Magistrate and Grade
I Magistrates as Designated Magistrates in the
Anti-Corruption Division of the High Court distorts
the Constitutional Composition and function of the
High Court and is in contravention of Articles 2,
10 79, 126, 138 and 257 (1) of the Constitution of the
Republic of Uganda.

ii. Directions 2, 8 and 10 of the impugned Directions
which provide for the appointment to and exercise
15 of judicial duties by the said "Designated
Magistrates" under the Anti-corruption Division of
the High Court which is not a Designated
Magisterial Area or Magistrates Court is contrary to
and in contravention of Articles 2, 79, 126 (2), 133
20 1(b) and 138 of the Constitution of the Republic of
Uganda.

iii. Direction 10 of the impugned Directions which
allows the said designated Magistrates who are
25 judicial officers of subordinate courts to double as
judicial officers of the High Court and exercise
unlimited territorial jurisdiction concurrently with

5 **the High Court is contrary to and inconsistent with
Articles 2, 79, 126, 128 (2) and 139 of the
Constitution of the Republic of Uganda.**

10 **iv. That the criminal trials conducted by the said
designated Magistrates under Anti-Corruption
Division of the High Court pursuant to impugned
Directions are not lawful and they derogate an
Accused's right to a fair hearing before an
independent and competent court established by
15 law contrary to Articles 2, 28(1), 44(c) and 126 of
the Constitution of the Republic of Uganda.**

20 • **That the said petition raises substantial grounds
requiring constitutional Interpretation and it
discloses a prima facie case with a very high
likelihood of success but ever since I filed the
petition the Magistrates at the ACD have
continued to try criminal cases.**

25 • **That I have confirmed from the Registry at the
ACD that there are presently over 200 cases
pending hearing and final determination before the
Chief Magistrates at the ACD.**

- 5 • That the Complainants, Prosecutors and more than
200 Accused Persons in the above cases are
enmeshed in a situation of unparalleled
uncertainty in Court because the Legality of the
Proceedings they are participating in cannot stand
10 as it is the subject of very serious and compelling
constitutional questions.
- That it is very clear that Magistrates are not
judicial officers of the High Court under Article
138 of the Constitution and that all proceedings
15 they are conducting or arising from them in the
ACD are not authorized by or founded on any
constitutional provision, the Anti- Corruption Act
2009, the Magistrates Court Act or any other law
for that matter.
- 20 • That it is only Parliament which can change the
Composition structure and functions of the High
Court under Article 150 of the Constitution and
that Parliament has not made any such law to
admit Magistrates to the structure of the High
25 Court.
- That with Magistrates continuing to discharge
judicial duties in ACD, great risk and danger of

5 **insurmountable proportions is presented to the
administration of criminal justice at the ACD in
that;**

10 **a) The Constitution and structure of the court
conducting the proceedings is unknown to the law
with the result that its proceedings are null and
void.**

15 **b) The Accused's non - derogable right to a fair
hearing in a competent Court established by law is
breached and/or cannot be guaranteed.**

20 **c) The integrity and legitimacy of criminal
prosecutions, appeals and any possible re-trials
shall be severely compromised and complicated.**

25 **d) The continued trials will lead to financial loss to
Government due to the wastage of public resources
including donor funds and private monies spent on
hiring private lawyers during the trials which funds
will never be recovered.**

- 5 • That irreparable, immeasurable and incalculable damage and/or injury shall be brought to bear on numerous complainants, accused persons, the Government and indeed the whole criminal justice process at ACD as the current proceedings before
- 10 or arising from Magistrates in the ACD are a nullity in law and fact.
- That the continued operation of ACD with Magistrates amounts to a mutilation of the Constitution which makes it lose its force and
- 15 effect and I am aggrieved by this mutilation of the Constitution because I have a right and duty to defend the Constitution and restore its force and effect under Article 3(4) of the Constitution.
- That the Respondent will suffer no prejudice if the
- 20 trials before and arising from the Magistrates in the ACD are stayed pending hearing and final determination of the main petition because the trials may resume or re-start depending on the outcome of the petition and new cases can be tried
- 25 by other existing Competent Courts.
- That no amount of compensation can atone the loss of enjoyment of fundamental constitutional

- 5 **rights and freedoms by several Accused persons if
they continue being subjected to irregular and
unconstitutional criminal proceedings at the ACD.**
- **That on the contrary, the prejudice, risk and
danger of proceeding with the Magistrate trials
10 before hearing the petition is far greater than the
need to have a short delay of the trials which a
stay when granted may occasion.**
 - **That this application serves an important
correctional purpose to restore the supremacy of
15 the Constitution, caveat and constitutionally re-
align the judicial process at the ACD and it is in
public interest that it be granted as sought.**
 - **That it is therefore safe, prudent and in the
interest of the administration of justice that
20 proceedings of the said Magistrates be stayed until
the hearing and final determination of the main
petition.”(sic).**

The respondent opposed the application and relied on an
affidavit in reply sworn by Mr. George Kallemera, a Senior
25 State Attorney from the Attorney General’s Chambers in
which it was averred, *inter-alia*, that:

- 5
- **“The Application is without merit, misconceived and an abuse of court process,**
 - **the Applicant has not established or cited any specific prosecution or matter, which is proceeding in contravention of the Constitution or any other**
 - 10 **law,**
 - **the Petition raises no issues for interpretation by this Honourable Court,**
 - **contrary to the Applicants averments, the Courts are exercising their Jurisdiction and acting**
 - 15 **within their mandate as prescribed by the Laws of Uganda and as such the Petition is without merit, misconceived and an abuse of Court process,**
 - **contrary to the averments of the Applicant, the High Court (Anti- Corruption Division) Practice**
 - 20 **Directions are consistent with and were enacted in accordance with the Constitution,**
 - **in all specific trials in which persons accused are dissatisfied with the decision of the Court, the persons are free to appeal therefrom,**
 - 25 • **the Application is vague, omnibus and non- specific and therefore moot and, or theoretical,**

- 5 • **the Applicant has not demonstrated how he or any other person/s have been occasioned an injustice or prejudice.**”(sic).

Submissions for the applicant.

10 Counsel for the applicant relied on the grounds of the application and the averments in the applicant’s affidavit filed in support thereof.

He submitted that the applicant’s **Constitutional Petition No.2 of 2013** pending in court discloses a prima-facie case
15 as it raises serious questions calling for constitutional interpretation.

He submitted further that the exercise of judicial duties in the High Court Anti Corruption Division, (hereinafter called the (HCACD)), by magistrates of whatever grade violated
20 the constitutional structure and composition of the High Court contrary to **Article 138** of the Constitution. Counsel contended that such magistrates are not judges as envisaged by **Article 138** of the Constitution. The powers of the Honourable The Chief Justice under **Article 133** of
25 the Constitution to issue orders and directions to courts do

5 not authorize him to alter the structure and composition of
the High Court as such power is vested only in Parliament
under **Article 150** of the Constitution. On this ground
alone, counsel stressed, the applicant was entitled to a
grant of the declarations and orders sought

10 On irreparable damage, counsel submitted that unless the
orders sought are granted, the applicant, the over two
hundred persons charged with various offences before the
HCACD, the Government and the development partners
who contribute to the financing of the HCACD at Kololo as
15 presently structured, would suffer irreparable damage and
injury because magistrates would continue to illegally
determine matters at that court yet its structure is in
contravention of **Articles 28(1)**, and **138** of the
Constitution and other laws. Such a court can neither
20 accord those before it access to justice nor a fair hearing as
required by **Article 28** which is un-derogable under
Article 44(c) of the Constitution. He prayed court to allow
this ground of the application.

On the question of the balance of convenience, counsel
25 submitted that such balance was in favour of the
applicant. The applicant and those undergoing the said

5 prosecutions, if they are not stayed, stand to suffer if a
timely opportunity is not availed to cause a correction and
a re-alignment of the structure and operations of the
HCACD. Counsel cited and relied on **Charles Onyango
Obbo vs the Attorney General, Supreme Court**
10 **Constitutional Petition Appeal No.2 of 2002** for the
submission that once the constitutionality of any
proceedings in any court is under challenge, court should
stay those proceedings until the final determination of the
petition challenging them. In the instant case where the
15 constitutionality of the court itself is being challenged, that
was even a more compelling reason for the court to stay the
proceedings before the HCACD.

The respondent would not suffer any inconvenience if such
a stay was to be granted because the existing trials would
20 resume after the determination of the main petition. New
trials would, in the meantime, be conducted in other
competent and properly structured courts.

In conclusion, counsel submitted that the application
before court fully satisfied all the requirements for the
25 grant of the declarations and orders sought and he prayed
court to grant the same.

5 **Submissions for the respondent**

In opposition to the application, counsel for the respondent heavily relied on his affidavit in reply. He contended that the application was incompetent, of no merit and an abuse of court process. It did not disclose a prima-facie case and
10 as such, it had no chance of success.

In counsel's view, the applicant was merely challenging the **High Court (Anti corruption) Practice Direction 2009** and not the specific laws under which the more than 200 accused persons were being prosecuted. Counsel sought to
15 distinguish the **Charles Onyango Obbo** case (supra) from the instant case in that, in that case the Petitioners challenged a specific provision of the Penal Code Act under which they had been charged.

Counsel further submitted that the applicant in the instant
20 case not only had not been charged before the HCACD but had also filed a vague, omnibus, non-specific, and theoretical application. All this rendered the application misconceived, frivolous and vexatious.

He submitted further, that **High Court (Anti corruption)**
25 **Practice Direction 2009** did not alter the structure and

5 **Submissions for the respondent**

In opposition to the application, counsel for the respondent heavily relied on his affidavit in reply. He contended that the application was incompetent, of no merit and an abuse of court process. It did not disclose a prima-facie case and
10 as such, it had no chance of success.

In counsel's view, the applicant was merely challenging the **High Court (Anti corruption) Practice Direction 2009** and not the specific laws under which the more than 200 accused persons were being prosecuted. Counsel sought to
15 distinguish the **Charles Onyango Obbo** case (supra) from the instant case in that, in that case the Petitioners challenged a specific provision of the Penal Code Act under which they had been charged.

Counsel further submitted that the applicant in the instant
20 case not only had not been charged before the HCACD but had also filed a vague, omnibus, non-specific, and theoretical application. All this rendered the application misconceived, frivolous and vexatious.

He submitted further, that **High Court (Anti corruption)**
25 **Practice Direction 2009** did not alter the structure and

5 composition of the High Court as provided for in **Article**
138 of the Constitution. To counsel, the designated
magistrates at the HCACD were merely brought in to assist
the judges at the High Court in the work of the Division.
Counsel relied on **Direction No.5** of the **High Court (Anti**
10 **Corruption) Practice Direction** to support his view. He
argued that under **S.161** of the **Magistrates Courts Act,**
Cap 297, magistrates had jurisdiction to try the offences
such as those they are presently handling at the HCACD.
It was for this reason that the definition of Magisterial Area
15 under the **High Court (Anti-corruption) Practice**
Direction had the same meaning as in the **Magistrates**
Court Act.

In counsel's view, since the Chief Justice has powers under
Ss 6 and **7** of the **Magistrates Court Act** to assign and
20 transfer Magistrates, the designation of magistrates in the
HCADC was, and is, lawful and constitutional. Counsel
cited **Geoffrey Kazinda vs Attorney General**
Constitutional Court Petition Application NO. 50/2012
and **Gilbert Asimwe vs Attorney General.**
25 **Constitutional Court Application No. 15 of 2010** to
support his submission. He pointed out that in those two

5 cases the Constitutional Court declined to grant a stay of
trials at the HCACD for lack of disclosure of a prima-facie
case. He prayed court to decline to grant the declarations
and orders prayed for.

On the question of irreparable damage, counsel submitted
10 that since the applicant had not shown that he is on trial
at the HCACD, he could not suffer any damage or injury if
those trials are left to continue. He contended that in any
case any damage or injury the accused persons may suffer
as a result of the trials at the HCACD as presently
15 structured and composed, would be remedied if those
accused persons availed themselves of the appellate
process of the criminal justice system.

On the balance of conveniences, counsel for the respondent
disagreed that this should be found to be in favour of the
20 applicant.

Court's consideration of the application

We have carefully considered the law applicable to this
application and the authorities cited to court together with
25 the affidavit evidence on record.

5 It is evident from the submissions of counsel for both parties that in their efforts to each establish a case for their representative clients, both delved into detailed submissions on matters that are best suited for argument at the hearing of the substantive Constitutionanl Petition.
10 This is not right. As was held by **Lord Diplock** in **American Cyanamid Co v Ethicon Ltd, 1975 I ALL ER 504** at P.510,

15 **“It is not the courts function at this stage of the litigation to try to resolve conflicts of evidence on affidavits as to facts on which the status of either party may ultimately depend nor to decide difficult questions of law which call for detailed arguments and mature considerations.**
20 **These are matters to be dealt with at the trial”**

We bear in mind the above position of the law as we proceed to determine this application.

25

5 **Locus standi.**

We first briefly dispose of the concern expressed by counsel for the respondent that the applicant, not being a party to any prosecution before the HCACD, could not justifiably bring **Constitutional Petition No.2 of 2013** or indeed the
10 instant application. We take the view that under **Article 137 (3)**, the applicant has a right to bring the said constitutional petition and this application. The article provides;

3 “A person who alleges that-

15 **(a) an Act of Parliament or any other law or anything in or done under the authority of any law; or**

**(b) any act or omission by any person or authority, is inconsistent with or in
20 contravention of a provision of this Constitution, may petition the constitutional court for a declaration to that effect and for redress where appropriate”**

5 Further, under **Article 3(4)(a)** of the Constitution, all citizens of Uganda, including the applicant, have the right and duty to defend the Constitution.

The article provides:

10 **(4)“All citizens of Uganda shall have the right and duty at all times-**

(a) to defend this constitution and, in particular, to resist any person or group of persons seeking to overthrow the established constitutional order and

15 **(b)...”**

One way of defending the Constitution is, in our view, by raising a petition challenging the constitutionality of any Act of Parliament or any other law or any act under any law or any omission by any person. Further, it is settled law
20 that any person can initiate public interest litigation even if such person may be doing it not for himself directly but for the benefit of the public or indeed other persons. See **The Environmental Action Network Ltd vs The Attorney General, and The National Environment Management Authority (NEMA) High Court at Kampala Miscellaneous**
25

5 **Application No. 39 of 2001**). Though a High Court decision, we cite the case with approval. We also consider it a well settled principle of law that where the constitution gives a right or imposes a duty, it is presumed to provide a way of enjoyment or fulfillment of that right or duty. See
10 **Katheleen Byrne v Ireland And The Attorney General (1972)J.R 241 at P.282** as adopted by this court in **R0/133 Maj.Gen. James Kazini and The Attorney General Constitutional Court Application No.4 of 2008** (unreported) where Walsh J stated;

15 *“Where the people by the Constitution create rights against the state or impose duties upon the state, a remedy to enforce them must be deemed to be also available. It is as
20 much the duty of the state to render justice against itself in favour of citizens as it is to administer the same between private individuals.”*

We, therefore, find that the applicant has locus standi to
25 lodge and prosecute in this court this application and **Constitutional Court Petition No. 2 of 2013**.

5 **The law as to injunctive orders:**

It is settled law that for an application for an injunction or order of stay of proceedings, whether interim or not, to succeed, the applicant has to show that:

- 10 i. **He/she has a prima-facie case in the constitutional petition, that the petition is neither frivolous nor vexatious and that the matters raised therein have a probability of success.**
- 15 ii. **Failure by court to grant the injunction or order of stay sought will cause irreparable damage that cannot be compensated for by an award of damages.**
- 20 iii. **If court is in doubt on both of the above two requirements or any of them, the court will determine the application on a balance of conveniences.**

See **Geilla vs Cassman Brown & Co. Ltd [1973] EA. 358; Noor Mohammed Kassamali VIRJI Vs Madhani [1953] 20 EACA 80, Robert Kavuma vs M/S Hotel International, SCCA No. 19 of 1990, and American Cyanamid Co. V Ethicon Ltd [1975] ALL ER 504 at P 25 510 Per Lord Diplock.**

5 **(a) Prima-facie case**

On the question of whether the applicant has shown a prima-facie case with a probability of success, the applicant's main complaint in the petition is that the current structure and composition of the HCACD as set up
10 under **The High Court (Anti corruption) Practice Directions, 2009**, is unconstitutional for being in contravention of **Articles 28(1), 44(c) 133,138** and **150** of the Constitution. He complains in particular, that the act of the Hon. The Chief Justice of designating, assigning or
15 attaching magistrates of whatever grade to the HCACD acting under the above Directions is contrary to **Articles 28(1), 44(c), 133 , 138** and **150(1)** of the Constitution.

From the heading of the impugned Directions, it is clear they are made to apply to the HCACD. The heading is
20 couched thus:

“The High Court (Anti Corruption Division) Practice Directions, 2009”

Article 138 provides for the judicial officers who comprise the High Court. The article provides:-

25 **“138 High Court of Uganda**

5 **(1) The High Court of Uganda Shall
consist of**

(a) the Principal Judge; and

**(b) such number of Judges of the High
Court as may be prescribed by
10 Parliament.”**

(2) ...”

15 To counsel for the applicant, given the above article the designation, assignment or attachment of magistrates to the HCACD distorts the constitutional structure and composition of that court. It is only Parliament under **Article 150** of the Constitution which can determine or alter the structure and composition of the High Court.

20 Without attempting to determine these and other matters in the main petition at this stage of litigation, we are satisfied that these are indeed serious issues and questions for determination by the appropriate Bench of the Constitutional Court. The petition therefore, in our view, is neither misconceived, frivolous nor vexatious. Instead, it alleges infringement of, *inter-alia*, **Article 28(1)** of the
25 Constitution, as to the basic right of a fair hearing which is

5 an un-doragable article under **Article 44 (c)** of the
Constitution. We, therefore, find and hold that the petition
passes the test of the requirement of a prima-facie case
with a probability of success.

(b) Irreparable damage

10 As for the second requirement of irreparable damage, the
term irreparable damages is defined by **Black's Law
Dictionary, 9th edition** as;

15 **“Damages that cannot be easily
ascertained because there is no fixed
pecuniary standard of measurement, e.g
damages for a repeated public nuisance.
Also termed non pecuniary damages.”**

We agree that an infringement of the right to a fair hearing
in **Article 28** of the Constitution is most likely to lead to
20 irreparable damage that cannot be atoned for in terms of
monetary damages.

Failure to grant the orders of stay sought by the applicant
would, therefore, lead to suffering irreparable damage by
those that, in the circumstances of this application, are
25 subjected to criminal prosecutions before the HCACD as

5 currently structured. The applicant too, though not one of
the persons undergoing such prosecution at the HCACD,
would equally suffer by the proceedings going on at that
court as he will continue to agonize over his apparent
inability to exercise his right and fulfill his duty to defend
10 the Constitution against a possible breach of the supreme
law of this country. The requirement that irreparable
damage is likely to be suffered is therefore, satisfied.

(c) Balance of convenience.

15 Since we have found that the above two requirements for
an injunctive order or an order of stay as sought in the
instant application are satisfied, there would be, in the
normal course of things, no need to consider the third
requirement of the court determining the application on the
balance of conveniences. We have, however, given the
20 serious nature of the issues involved in this application,
resolved to deal with this aspect of it.

We hasten to add therefore, that even if we had been in
doubt on any of the above two requirements, we would still
find that the balance of conveniences in the instant
25 application would be in favour of the applicant. This is so
because if court, at the final disposal of the main petition,

5 was to find that the prosecutions should continue, the
same will resume without any inconvenience to the state.
On the other hand, should court, find that indeed the
proceedings before the HCACD as currently structured are
unconstitutional and therefore null and void, those that
10 would have been conclusively dealt with by that court, and
indeed those that would still be subjected to such
proceedings would have been extremely inconvenienced.

It was argued that temporarily staying the criminal
proceedings at the HCACD would greatly and adversely
15 affect the operations of this country's criminal justice
system and that it would cause a stampede. We find that
this is not necessarily so. First the position at law is that
where the constitutionality of any proceedings, Act, act or
omission is being questioned and a prima-facie case is
20 made out, then such proceedings, Act, act or omission
should be stayed. See the **Charles Onyango Obbo** case
(supra). Secondly, all ongoing prosecutions at other
competent courts throughout the country would continue
while new prosecutions would also continue to be filed and
25 prosecuted in the rest of the unaffected courts of

5 competent jurisdiction. Thirdly, corrective action by those concerned, in our view, can easily be taken.

As for the cases of **Geoffrey Kazinda vs The Attorney General, Constitutional Petition Application No. 50 of 2012** and **Gilbert Asimwe vs Attorney General**
10 **Constitutional Application No. 15 of 2010** relied on by the respondent in the instant application, the two are distinguishable from the facts of the instant application. In none of those two cases was the constitutionality of the structure and composition of the court before which the
15 proceedings were being conducted was challenged. Further, in none of the two cases did the court find a prima-facie case with a probability of success established.

In the result we find that the application before us satisfies all the requirements for the issue of the injunctive orders of
20 stay sought by the applicant.

Accordingly, we allow the application and make the following orders:

1. The criminal proceedings currently going on in the High Court Anti Corruption Division at Kololo
25 **before, and those arising from, the Chief**

5 **Magistrate and Magistrate Grade I or any other
magistrate attached to the HCACD at Kololo be and
are hereby stayed pending the disposal of
Constitutional Petition No.2 of 2013 or until such
other or further orders of this court.**

10 **2.The orders made herein shall not have
retrospective application to proceedings taken and
concluded by the HCACD prior to the delivery of
this ruling.**

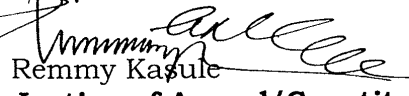
15 **3.The costs of this application shall abide the
outcome of Constitutional Petition No.2 of 2013.**

We so Order.

Dated at.....this.....day of.....*July* 2013

20 
S.B.K Kavuma
AG. Deputy Chief Justice/President Constitutional Court

25 
A.S. Nshimye
Justice of Appeal/Constitutional Court

30 
Remmy Kasule
Justice of Appeal/Constitutional Court