



REPUBLIC OF MALAWI
JUDICIARY
IN THE HIGH COURT OF MALAWI
PRINCIPAL REGISTRY
ELECTION (CIVIL) CASE NUMBER 61 OF 2025

BETWEEN:

RASHID ABDUL GAFFAR

1ST PETITIONER

ALEX CHIMWALA

2ND PETITIONER

AND

VERONICA PEMPHO NDALAMA

1ST RESPONDENT

MALAWI ELECTORAL COMMISSION

2ND RESPONDENT

CASE SUMMARY

PARTIES: GAFFAR AND CHIMWALA v NDALAMA AND
MALAWI ELECTORAL COMMISSION

PRESIDING JUDGE: *HON. JUSTICE MUHOME*

DELIVERED ON: 22ND OCTOBER 2025

- I. *BRIEF FACTS*: The Petitioners, Rashid Abdul Gaffar and Alex Chimwala, challenged the declaration by the Malawi Electoral Commission (MEC) naming the 1st Respondent, Veronica Pempho Ndalama, as the duly elected Member of Parliament for Blantyre City South Lunzu Constituency following the 16th September 2025 parliamentary elections. The Petition, filed on 6th October 2025, sought the nullification of the election on grounds that the 1st Respondent had corruptly influenced voters. Instead of filing a response to the Petition, the 1st Respondent raised a Preliminary Objection arguing that the Petition was incompetent under section 100 of the Presidential, Parliamentary and Local Government Elections Act, 2023 (PPLGA). The objection rested on two points: (i) The Petition was not an appeal against any MEC determination, as it had been filed before the Petitioners had received or reviewed MEC's decision on their complaints. (ii) There was, in any event, no appealable decision by MEC either confirming or rejecting the existence of any alleged electoral irregularity. The Petitioners, through Counsel Michael Goba Chipeta, opposed the objection, arguing that the matter involved substantive factual issues and should proceed to trial.
- II. *THE LEGAL ISSUES*: The Court identified the following core issues for determination:
- Whether the Petition was competently filed under section 100 of the PPLGA in the absence of a prior MEC determination confirming or rejecting the alleged irregularities.
 - Whether the failure to initially attach MEC's decision to the Petition rendered it fatally defective or a curable procedural irregularity.
 - Whether the Preliminary Objection was consistent with the overriding objective of the Courts (High Court) (Civil Procedure Rules) 2017 (CPR), which require the Court to handle matters justly and proportionately.
- III. *THE FINDING*: The Court examined section 100 of the PPLGA, which allows an appeal to the High Court only against a decision of MEC confirming or rejecting the existence of an irregularity, and held that:

- MEC had indeed made decisions on the Petitioners' complaints. Whether those decisions confirmed or rejected the irregularities were matters for trial, not preliminary disposal.
- The corruption allegations against the 1st Respondent were serious and warranted a full hearing. Justice required that the matter be tested through evidence rather than dismissed summarily.
- The Petitioners' supplementary sworn statements filed on 8th October 2025, incorporating MEC's decisions dated 23rd and 27th September 2025, sufficiently cured the omission in the initial filing.
- The Court accepted the Petitioners' explanation that the Petition was filed within the 7-day statutory limit under section 101 of the PPLGA, and any delay in obtaining MEC's decision justified the supplementary filings.

The Court reiterated that technicalities must not override substantive justice, citing *Harnam Singh v Jamal Pirbhai* [1951] AC 608, and emphasised the overriding objective of the CPR (Order 1 rule 5) to deal with cases justly, expeditiously, and proportionately.

IV. *ORDER*: The Court overruled the Preliminary Objection, holding that:

- The Petition was properly before the Court.
- The 1st Respondent must file and serve her reply within 14 days.
- The Petition will be heard in open Court on 3rd November 2025 at 9:30 a.m.
- Each party shall bear its own costs for the application.

NB: *The High Court of Malawi and the Honourable Judge are not bound by this explanatory note, which is provided by the Office of the Chief Registrar to facilitate public understanding of this case and to assist the media in reporting on it. Readers are encouraged to read the court's judgment or ruling.*