



**IN THE EAST AFRICAN COURT OF JUSTICE AT  
ARUSHA FIRST INSTANCE DIVISION**



*(Coram: Jean Bosco Butasi, J; Isaac Lenaola, DPJ; Faustin Ntezilyayo, J;  
Monica Mugenyi, J & Fakihi A. Jundu J)*

**REFERENCE NO. 9 OF 2013**

1. **ALLY HATIBU MSANGI.....**
  2. **DAVID GEOFFREY MAKATHA.....**
  3. **JOHN ADAMA BUSEMBA .....**
- APPLICANTS**

**VERSUS**

1. **THE SECRETARY GENERAL OF  
THE EAST AFRICAN COMMUNITY.....1<sup>ST</sup> RESPONDENT**
2. **THE ATTORNEY GENERAL OF  
THE REPUBLIC OF KENYA.....2<sup>ND</sup> RESPONDENT**
3. **THE ATTORNEY GENERAL OF  
THE REPUBLIC OF UGANDA.....3<sup>RD</sup> RESPONDENT**
4. **THE ATTORNEY GENERAL OF  
THE REPUBLIC OF RWANDA.....4<sup>TH</sup> RESPONDENT**

**24 TH FEBRUARY 2015**

## **RULING**

1. The Applicants have sought to discontinue Reference No. 09 of 2013 under Rule 51(1)(b) of the East African Court of Justice Rules of Procedure. Since the Respondents have no objection, the Reference is marked as discontinued by consent of parties.
2. As for costs, under Rule 51(1)(b) and (2), where there is no agreement on the terms of discontinuance, including on costs, the Court may make such orders as are just. There is clearly no agreement as whether costs are payable to the Respondents upon discontinuance of the Reference.
3. Having heard the Parties, it is our decision that noting the nature of the matter, the time taken by all Respondents in filing pleadings and conducting research and further noting that the application for discontinuance has only been made in Court this morning, without notice to the Respondents, costs are certainly payable to the Respondents.
4. In the event, the Reference is marked as discontinued under Rule 51(1)(b) of the Court's Rules of Procedure with costs to the Respondents.

It is so ordered.

**Dated, Delivered and Signed at Arusha this 24<sup>th</sup> day of February, 2015.**

.....  
**JEAN BOSCO BUTASI**  
**PRINCIPAL JUDGE**

.....  
**ISAAC LENAOLA**  
**DEPUTY PRINCIPAL JUDGE**

.....  
**FAUSTIN NTEZILYAYO**  
**JUDGE**

.....  
**MONICA MUGENYI**  
**JUDGE**

.....  
**FAKIHI A. JUNDU**  
**JUDGE**