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CASE ALERT

HIGH COURT DISMISSES PETITION AND CONFIRMS THE BUNDIBUGYO DISTRICT WOMAN REPRESENTATIVE

Kapalaya Donna Kamuli v Bebona Josephine Babungi & The Electoral Commission — Election Petition No. 02 of 2026, High Court of Uganda at Fort Portal

DISPUTE RESOLUTION

9 November 2026

CASE DETAILS

Kapalaya Donna Kamuli v Bebona Josephine Babungi & The Electoral Commission, Election Petition No. 02 of 2026 [2026] UGHC 1382, High Court of Uganda at Fort Portal, before Hon. Lady Justice Joanita Bushara.

KTA Advocates represented the 2nd Respondent, the Electoral Commission. Counsel Masereka Martin appeared for the Petitioner. Counsel Isingoma Esau, together with Counsel Emmanuel Okia and Counsel Joel Munawa, appeared for the 1st Respondent.

Represented by

The 2nd Respondent was represented by the following members of the KTA Advocates Dispute Resolution team:



Edwin Tabaro
Dispute Resolution



Innocent Ngoboka
Dispute Resolution



Stuart Kamugisha
Dispute Resolution

BRIEF FACTS

The petition arose from the election for the Bundibugyo District Woman Representative to Parliament, held on 15 January 2026. The Petitioner, Kapalaya Donna Kamuli, stood as an independent candidate. The 1st Respondent, Bebona Josephine Babungi, stood on the National Resistance Movement ticket and was declared elected with 34,169 votes (45.18%) against the Petitioner's 32,182 (42.55%), a margin of 1,987 votes. Amanya Anne polled 8,740, Kabasinguzi Jenniffer 516 and Masika Harriet 22. The result was published in the Uganda Gazette on 6 February 2026.

The petition was a sustained attack on the chain by which polling-station results were transmitted, verified, tallied and declared. The Petitioner alleged ballot stuffing, alterations and vote padding, discrepancies between Declaration of Results Forms (DR Forms) and the Commission's tally, unlawful delegation of tallying functions, exclusion of her agent from the tally centre, and bribery, violence, threats and intimidation.

Her central numerical claim was a recurring twenty-vote alteration: twenty votes deducted from her at seventy-nine polling stations and twenty added to the 1st Respondent at seventy-nine others. She invoked all three routes under section 80(1) of the Parliamentary Elections Act — non-compliance with substantial effect, proof that another candidate won, and illegal practices — each to be proved on a balance of probabilities under section 80(3).

THE COURT'S REASONING

Affidavits and documents

The Court declined to strike the Petitioner's sixteen supporting affidavits, whose jurats omitted the commissioning officer's name and title. The signatures and the seal of the Magistrates Court of Mengo supported treating the commissioning as an official act; the omission warranted scrutiny but did not establish that no lawful oath was administered.

It likewise declined to expunge the twenty-seven affidavits the Respondents filed on 30 September

2026, two days after the directed deadline, in light of the service chronology on both sides. The objection to uncertified DR Forms was upheld only so far as an uncertified public document does not acquire probative force by being annexed to an affidavit or received at scheduling. A late application for a police handwriting examination was disallowed as coming after the Joint Scheduling Memorandum.

Non-compliance and substantial effect

The 1st Respondent accepted under cross-examination that the DR Form figures at four polling stations were 74, 54, 41 and 25 rather than the 94, 74, 61 and 45 entered on the tally — a difference of twenty votes at each, eighty in all. The Commission's own certified reconciliation recorded 32,796 votes for the 1st Respondent against 32,069 for the Petitioner, reducing the declared margin from 1,987 to 727.

Those findings established material inaccuracies in the original tally. They could not, however, be aggregated into a reliable alternative total. The Petitioner's own figures were inconsistent — twenty votes at seventy-nine stations is 1,580, while her evidence variously pleaded 320, 340 and 1,344 — and the four admitted stations could not be extrapolated to the rest.

The Court accepted that substantial effect is not purely arithmetic, and that an election shown to be fundamentally unreliable may be set aside even where no alternative tally can be reconstructed. But the factual basis for that conclusion must itself be proved, and here it was not.

Whether another candidate won

None of the competing computations placed the Petitioner ahead: neither the declaration, nor the certified reconciliation, nor her own rejoinder figures of 32,768 against 32,423, nor the 1st Respondent's personal calculation. The ground under section 80(1)(b) therefore failed.

Illegal practices

The allegations of solar street lights, football jerseys, cash, an ambulance, a CT scan, threats and campaign statements each failed for want of the statutory nexus. Section 80(1)(c) requires proof of the prohibited gift or conduct, the electoral intent, and either the candidate's personal involvement or her knowledge, consent or approval. Village talk of money no deponent could trace to an identified recipient could not establish bribery.

The Commission's records

The Court held that the Commission cannot resolve demonstrated discrepancies by asserting that innocent human error does not invalidate an election. Its constitutional and statutory duties require a transparent, verifiable explanation of material corrections by reference to the underlying entries, and a failure to give one may justify an adverse inference.

An election shown to be fundamentally unreliable may be set aside even where no alternative tally can be reconstructed.

DECISION

The petition was dismissed and the election and return of Bebona Josephine Babungi as District Woman Representative for Bundibugyo District was confirmed. On costs, the Court held it would be unjust to require the 1st Respondent to bear the cost of defending an election whose official results she was entitled to rely upon, and that the discrepancies arose principally from the Commission's management and reconciliation of the returns. It ordered the 1st Respondent's costs to be borne equally by the Petitioner and the 2nd Respondent.

KEY TAKEAWAYS

01. A parliamentary election petition is proved on a balance of probabilities, not beyond reasonable doubt. Allegations of falsification nonetheless require cogent, authenticated evidence.

02. A jurat omitting the commissioning officer's name is not automatically fatal where the signature and court seal show the oath was administered through a recognised judicial institution.

03. Proof that the Commission erred is the beginning of the inquiry under section 80(1)(a), not the end. Non-compliance must also be shown to have substantially affected the result.

04. A petitioner's arithmetic must hold together. Figures pleaded at 320, 340, 1,344 and 1,580 for the same allegation left the Court unable to adopt any of them.

05. A later certified tally is evidence bearing on the accuracy of the original aggregation. It does not of itself amend a declared and gazetted result.

06. The Commission must be able to explain material corrections by reference to the underlying entries. Where it cannot, costs may follow even though the petition fails.

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