



**IN THE COURT OF APPEAL**

**AT NAIROBI**

**(Coram: KWACH, PALL & OWUOR JJ.A)**

**CIVIL APPEAL NO. 150 OF 1998**

**BETWEEN**

**ALICEN J.R. CHELAITE .....APPELLANT**

**AND**

**DAVID MANYARA NJUKI ..... 1ST RESPONDENT**

**SIMON OLE KERORE ..... 2ND RESPONDENT**

**ELECTORAL COMMISSION ..... 3RD RESPONDENT**

(Appeal from the Ruling of the High Court of Kenya at  
Nakuru (Hon. Lady Justice Aluoch) dated 2nd July,  
1998

**JUDGMENT OF OWUOR J.A**

I have had the advantage of reading in draft the Judgments of my brothers, Kwach and Pall JJ.A. I fully agree with them that for the reasons they have given, this appeal should be dismissed with costs. In the course of argument, I was inclined to think that there was indeed a conflict between section 20(1) (a) of the National Assembly and Presidential Election Act Cap 7 and Rule 14(1) of the National Assembly Election (Election Petition) Rules, but on reflection and having read my brothers' Judgments, I am satisfied that there is none.

The efficacy of Rule 14(1) has not been affected by the amendment of section 20(1) (a) of the Act, introduced by Act No. 10 of 1997.

**Dated and delivered at Nakuru this 16th day of October, 1998.**

**E. OWUOR**

**JUDGE OF APPEAL**

I certify that this is a true copy of the original.

**DEPUTY REGISTRAR**