

**BETWEEN: Lulu Sakias of Vimele Village,
South Santo, Vanuatu**
Petitioner

**AND: Hosea Nevu of Port Vila,
Vanuatu**
First Respondent

**Samson Samsen of Port Vila,
Vanuatu**
Second Respondent

Date of Judgment: 13th May, 2016

Before: Vincent Lunabek – Chief Justice

In Attendance: Mr Edward Nalyal for Petitioner

Mr Daniel Yawha for First Respondent

Mr Tom Joe for Second Respondent

REASONS FOR STRIKING OUT PETITION

The Petitioner filed an Election Petition on 19 February 2016 challenging the elections of the First and Second Respondents in the Parliamentary elections of 22 January 2016. The Petition alleged that the First Respondent committed the offence of treating and that the Second Respondent has committed the offence of bribery. The Petition contained the details of the grounds of the petition..

On 19 February 2016, when the Petition was presented before the Supreme Court there was no sworn statement filed by the Petitioner setting out details of the evidence the Petitioner relies on and there was no other sworn statements that support the Petition.

The Petitioner filed a sworn statement on 18 April 2016. There were other sworn statements filed in support of the Petition in March and April 2016.

The Petitioner's sworn statement and other sworn statements filed in support of the Petition were filed outside the mandatory time prerequisites under s.57 (1) of the Representation of the People Act [Cap 146] and outside the requirements of Rules 2.3 (2) (a) (b) and 2.5 (1) of the Election Petition Rules.

The Petition filed by the Petitioner on 19 February 2016 is incomplete and thus invalidity presented. The Petition as envisaged under s.57 (1) of the Act [Cap 146] is inclusive of the sworn statements of the Petitioner and other sworn statements as

provided and required under Rules 2.3 (2) (a) (b) and 2.5 (1) of the Election Petition Rules.

Consequently, the sworn statements cannot be relied upon. Election Petitioners are serious matters. They challenge the wishes of the majority of electors in an election petition. Those who instigate any challenge must comply with the mandatory pre-requisites under s.57(1) and the Election Petition Rules. This election petition must be struck out. The Court strikes out the Petition and ordered costs in favour of the First Respondent and the Second Respondent.

The Court issued the following orders:

ORDERS

1. The Petition is struck out.

2. The First and Second Respondents are entitled to costs against the Petitioner as follow:

-First Respondent: 10,000 Vatu
-Second Respondent: 30,880 Vatu

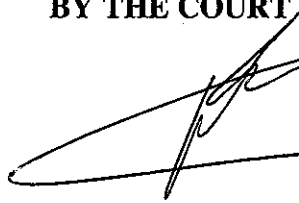
Total costs: 40,880 Vatu

3. The Petitioner's cautions fees paid into the court shall be released and used toward the payments of the total costs of Vatu 40,880 ordered against the Petitioner.

4. The Petitioner shall pay such costs of Vatu 40,880 to the First and Second Respondents as detailed in order 2 above by 4 May 2016.

DATED at Port Vila this 13th day of May, 2016.

BY THE COURT


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Vincent Lunabek
Chief Justice

