



**County Assemblies’ Forum v Attorney General & others (Constitutional
Petition E001 of 2025) [2025] KEHC 4706 (KLR) (8 April 2025) (Ruling)**

Neutral citation: [2025] KEHC 4706 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
CONSTITUTIONAL PETITION E001 OF 2025**

DO CHEPKWONY, J

APRIL 8, 2025

**IN THE MATTER OF: ARTICLES 10(2), 96(1)(2) AND (3), 118, 174, 175(B), 185, 201, 202(1)
AND 203(1) OF THE CONSTITUTION OF KENYA, 2010, THE CONSTITUTION OF
KENYA (PROTECTION OF RIGHTS AND FUNDAMENTAL FREEDOMS) PRACTICE
AND PROCEDURE RULES, 2013, AND ALL ENABLING PROVISIONS OF LAW.**

AND

**IN THE MATTER OF: THE CONTRAVENTION AND THREATENED
CONTRAVENTION OF ARTICLES 10(2), 118, 174, 175, 185, 202,
202(1) AND 203(1) OF THE CONSTITUTION OF KENYA, 2010.**

AND

**IN THE MATTER OF: DEVOLUTION AND REVENUE SHARING BETWEEN
THE NATIONAL GOVERNMENT AND COUNTY GOVERNMENTS.**

AND

**IN THE MATTER OF: THE VIOLATION, INFRINGEMENT, AND THREATENED
CONTRAVENTION OF THE PRINCIPLES OF GOVERNANCE SUCH AS SHARING AND
DEVOLUTION OF POWER, PARTICIPATION OF THE PEOPLE, GOOD GOVERNANCE,
INTEGRITY, TRANSPARENCY, AND EQUITABLES SHARING OF NATIONAL REVENUE**

AND

**IN THE MATTER OF: IMPLEMENTATION OF THE COUNTY ALLOCATION
OF REVENUE ACT, 2024 AND DIVISION OF REVENUE ACT, 2024.**

BETWEEN

COUNTY ASSEMBLIES’ FORUM PETITIONER

AND

ATTORNEY GENERAL & OTHERS RESPONDENT



RULING

1. This matter came up for mention on 7th April, 2025 for parties to confirm compliance of the directions issued on 18th March, 2025 which referred to the conservatory orders which had been issued on 9th January, 2025 and the disposal of the petition alongside other pending application filed by either party in this Petition.
2. Counsel for a few of the parties herein attended court and it clearly came out that a few of them had partially complied with the said directions. However, in the course of confirming compliance by the parties, counsel for the Respondent, Ms. Wambu to issue upon the parties and in their respective counsel brought to the court's attention that the application dated 25th January, 2025 in which she was seeking to have this Petition consolidated with another mater being Judicial Review No. E383 of 2024 which is pending before Hon. Justice Lawrence Mugambi of the Judicial Review Division, Milimani High Court in Nairobi and in the alternative, the court to enjoin the Senate and the National Assembly to this Petition since a large part of its substratum touches on the said two arms of Parliament.
3. It is her argument that a decision on this Petition will affect the two parties hence it would only be fair and in accordance with the rules of National Justice that they be accorded a fair hearing as provided for under Article 50 of *the Constitution*. According to counsel for the Respondent, the Senate and National Assembly are not well represented in the Petition and yet the issues raised therein basically revolve around their legislative mandate, and not the Respondents who do not pass laws.
4. While counsel for the Interested Parties were not opposed to the proposal by M/S. Wanjiru, counsel for the Respondent, that the Senate and National Assembly be enjoined in the proceedings as parties. Mr. Kinyua Wanjohi counsel for the Petitioner, first opposed the same. Mr. Kogo counsel for the County Government of Nandi clarified that the Attorney General does not represent the entire Government but represents the Executive Arm of Government contrary to the Petitioner's belief. He urged that there was need to involve the Legislative Arm of Government in this proceeding to enable them deal with the Petition substantially and conclusively.
5. Having listened to the submissions by all counsel on the issues raised by the Respondents counsel in regard to the Notice of Motion Application dated 24th February, 2025 that either:
 - a. This Petition be consolidated with Judicial Review No.E383 of 2024 which is pending before Milimani High Court for hearing and determination since the issues raised in both are similar; and or,
 - b. In the alternative, the Senate and National Assembly be enjoined in these proceedings
6. This court found that except for counsel for the Petitioner, all the others were of the view that it would be reasonable to enjoin the Senate and National Assembly to these proceedings as the legislative arm of Government for the substantive and conclusive determination of the Petition.
7. Counsel for the Petitioner then sought for a brief beak to enable him consider the issue and counsel returned with a proposal that instead of the Petitioner being granted leave to amend the Petition, they invited the court to join the Senate and National Assembly as parties to these proceedings pursuant to Rule 5 (d) (ii) of *the Constitution* of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules. And being alive that the law subject of this Petition is due to lapse on 30th June, 2025, the issue of consolidation was abandoned for expeditious disposal of the Petition.



8. In view of this, the court finds merit in the Notice of Motion Application dated 24th February, 2025, filed by the Respondent, but only in so far as the alternative prayer on joinder of the Senate and National Assembly is concerned.
9. Therefore, in exercise of the powers accorded to this court as per the Provision of Rule 5 (d) (ii) of *the Constitution* of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedures Rules as read with Order 1 Rules (3) and (10) of the Civil Procedure Rules, this court finds it necessary to enjoin the Senate and National Assembly as parties to these proceedings for purposes of determining the real questions in controversy between the parties herein.
10. Consequently, the following directions issue:-
 - a. Accordingly, the Petitioner to amend the Petition dated 6th January, 2025, to include the Senate and National Assembly as parties.
 - b. The Petitioner to file and serve the amended Petition upon the other parties herein within three (3) days from the date herein, that is, by close of business on 11th April, 2025.
 - c. Upon being served with the amended Petition, the opposing parties to file and serve their respective responses, if need be, within three (3) days that is, by close of business on 16th April, 2025.
 - d. Therefore, the parties to canvass the Petition by way of written submissions.
 - e. The Petitioner is granted seven (7) days leave to file and serve a further affidavit, if need alongside written submissions upon being served with respective responses by the other parties, that is by close of business on 23rd April, 2025.
 - f. The opposing parties to file and serve their respective written submissions within seven (7) days of being served with the Petitioners submissions, that is by close of business on 30th April, 2025.
 - g. Mention on 2nd May, 2025, to confirm compliance and file a date for Judgment.
 - h. Direction and Notice to be served upon the other parties (uploaded the same to the e-Portal).

It is so ordered.

RULING DELIVERED VIRTUALLY, DATED AND SIGNED AT KIAMBU THIS 8TH DAY OF APRIL , 2025.

D. O. CHEPKWONY

JUDGE

