



Kamaria v Speaker, County Assembly of Embu & 2 others (Constitutional Petition E007 of 2025) [2025] KEHC 9869 (KLR) (7 July 2025) (Ruling)

Neutral citation: [2025] KEHC 9869 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT EMBU
CONSTITUTIONAL PETITION E007 OF 2025
EM MURIITHI, J
JULY 7, 2025**

BETWEEN

PROF JOE KN KAMARIA APPLICANT

AND

THE SPEAKER, COUNTY ASSEMBLY OF EMBU 1ST RESPONDENT

THE CLERK, COUNTY ASSEMBLY OF EMBU 2ND RESPONDENT

THE COUNTY ASSEMBLY OF EMBU 3RD RESPONDENT

RULING

1. The Petitioner who alleges unconstitutional attempted removal from office of County Executive Committee Member for Finance and Economic Planning filed a petition to stop the impeachment proceedings and by interlocutory Notice of Motion for conservatory orders in specific terms as follows:

“1. ...

2. That pending inter partes hearing of this application, the Court be pleased to issue a Conservatory Order restraining and or stopping the 1st and 2nd Respondents or a y Member of the 3rd Respondent from introducing a motion, discussing, seizing, deliberating otherwise implementing the Ruling of the 1st Respondent and the county Assembly of Embu ,Committee of the whole Assembly pertaining the removal from office of the Petitioner on the I" of July 2025 or any other day, Pending the hearing of this Application

3. That pending inter partes hearing of this Application, this Honourable Court be pleased to stay the Ruling made by the 3rd Respondent herein made on the 18th JUNE 2025 regarding the purported removal of the Applicant from office of the member of the County Executive Committee in a manner that



is not prescribed in the Standing Orders, specifically No. 76 of the County Assembly of Embu, *the Constitution* of Kenya 2010, and Section 40 of County Government Act.

4. That pending inter partes hearing and determination of the substantive Petition, this Honourable Court be pleased to issue a Conservatory Order restraining and or stopping the 1st and 2nd Respondents or any Member of the 3rd Respondent from introducing, discussing, seizing, deliberating or otherwise implementing the Ruling of the 1st Respondent and the county Assembly of Embu, Committee of the whole Assembly pertaining the removal from office of the Petitioner on the 1st of July 2025 or any other day.
 5. That pending inter partes hearing and determination of the substantive Petition, this Honourable Court be pleased to stay the Ruling made by the 1st Respondent herein made on the 18th June 2025 regarding the purported removal of the Applicant from office of the member of the County Executive Committee in a manner that is not prescribed in the Standing Orders, specifically No. 76 of the County Assembly of Embu, *the Constitution* of Kenya 2010, and Section 40 of County Government Act.
 6. That costs of this application be provided for”
2. The Court certified urgent the matter for the removal of the CEC from office, set the hearing for 4/7/2025 and to enable the hearing inter partes of the matter, the Court granted for three days an order for status quo to be maintained in terms of Prayers Nos. 2 and 3 of the Notice of Motion, and set the hearing for 4/7/2025 in view of the urgency.
 3. In response, the Respondents filed a Replying Affidavit and raised a Preliminary Objection both dated 3/7/2025
 4. On 4/7/2025 when the matter came up for hearing, the petitioner’s Counsel sought time to consider the Preliminary Objection and hearing was set for 2.30pm on the same day, having been notified that the impeachment proceedings were set for Monday 7/7/2025.
 5. At the 2.30pm hearing Counsel indicated to Court that she had filed and served an application for contempt against the Respondents for breach of the conservatory order given on 2/7/2025, and sought directions for the hearing of the application for contempt. Taking the Preliminary Objection on jurisdiction to take precedence in view of the possible effect on the court’s authority to proceed with the matter in any way, the Court directed that the objection to the Court’s jurisdiction be heard first, and the directions on the hearing of the application for contempt to await the outcome of the Preliminary Objection.
 6. The Preliminary Objection was in the following terms:

“Preliminary objection

Take Note That the Respondents herein at the earliest opportunity before the hearing of the Application and Petition dated 30TH June 2025 shall raise a Preliminary Objection and shall pray that the Petitioners’ application under certificate of urgency and the Petition thereof be dismissed with costs on the following;

Grounds Of Objection:



1. That Article 175 (a) and 185 (3) of *the Constitution*, 2010 provides for the principles of devolution, the Honorable Court lacks jurisdiction to entertain the Petition and the Notice of Motion dated 30th June 2025, as the same offends the constitutional doctrine of separation of powers and seeks to prematurely interfere with an ongoing legislative process before the Respondents.
2. That the impeachment process was initiated by the Respondent's on 24th June, 2025 against the PetitionerApplicant under Section 40 of the *County Governments Act*, 2012, and Clause 85 of County Assembly of Embu Standing Orders, 2022, is a constitutionally and statutorily sanctioned legislative function that has not yet run its full course and is therefore not amenable to judicial intervention at this stage and thus the Honourable court lacks jurisdiction to hear the Application and Petition dated 30th June 2025.
3. That the conservatory orders obtained ex-parte on 2nd July 2025, particularly prayers 2 and 3, are unenforceable as they purport to halt a legislative process already underway and within a strict statutory timeframe, which would cripple the constitutional mandate of the Respondents under Articles 1, 175, 185, and 195 of *the Constitution of Kenya*, 2010, Section 40 of the *County Governments Act*, 2012, and Clause 85 of the County Assembly Standing Orders, 2022.
4. That the Petition and Application are fatally defective and an abuse of court process, having been filed and inviting the Honourable court to exercise a jurisdiction over a Petition and an application which is non-justiciable at the present stage and prematurely ripe for judicial intervention.
5. That this Honourable Court wholly lacks jurisdiction to entertain, hear, or determine the Petitioner's Application and Petition dated 30th June 2025.

Legal Rationale

1. That the Respondents, are lawfully vested with the Constitutional and Statutory mandate to initiate, consider, and determine the removal of the Petitioner from office, under Articles 1, 175 (a), 185(3), 195 of *the Constitution of Kenya*, 2010, Section 40 of the *County Governments Act*, 2012, and Clause 85 of County Assembly of Embu Standing Orders, 2022.
2. That Petition challenges an ongoing removal process already initiated by the County Assembly of Embu on 24th June 2025 under express statutory and constitutional provisions. Indeed, the decision rendered by the Supreme Court in *Justus Kariuki Mate & another v Martin Nyaga Wambora & another* [2017] eKLR, particularly at paragraphs 85 to 95, is binding to this Honourable Court pursuant to Article 163(7) of *the Constitution*, which Supreme Court decision affirms that constitutionally prescribed timelines for the removal of a County Executive Committee Member, the PetitionerApplicant herein, are not amenable to court alteration or suspension before the conclusion of the process. The effect is that, a methodical and conscientious inquiry would show the County Assembly to have been operating quite properly, within the constitutional scheme of devolution, and running its legislative processes within the ordinary safeguards of the



separation of powers – and consequently, quite legitimately outside the path of the ordinary motions of the judicial arm of State. On that basis, there would have been hardly any scope for the deployment of the court’s conservatory orders – more particularly without first hearing the petitioners.

3. It follows that jurisdiction cannot be conferred upon this Honourable Court where the matter at hand is non-justiciable at the present stage, as the process must be allowed to run its constitutional and legal course before any judicial intervention is contemplated as held by the Court of Appeal in *Mwangaza v County Assembly of Meru & another; Council of Governors (Interested Party) (Civil Application E093 of 2023) [2023] KECA 1599 (KLR) (27 October 2023) (Ruling)*

“The courts cannot, in the first instance, intervene in the impeachment of the applicant. This is because of strict timelines provided by the law. The Supreme Court decision of Justus Kariuki Mate (supra) is binding on this Court. The preliminary objection is, therefore, upheld. This Court lacks jurisdiction in the first instance to consider the merits of the applicant’s application which sought Conservatory Orders before the impeachment process has run its constitutional and legal course.”

4. That *the Constitution*, vests distinct mandates upon the Legislature, Executive, and Judiciary under Article 1(3). The power to initiate, consider, and determine removal proceedings against a County Executive Committee Member, is a legislative function and thus Judicial interference in such a process before it is conclusively concluded violates the doctrine of separation of powers.
5. That further the Application and Petition dated 30th June 2025 does not present a ripe dispute for adjudication. The PetitionerApplicant has not been subjected to any completed or final action that would trigger a conclusive constitutional controversy thus the Honourable Court cannot be called upon to intervene in anticipation of potential outcomes of an unfinished process as was held in *Jekim Hospital Nkubu Ltd & another v Kenya Medical Practitioners and Dentists Council & 2 others (Constitutional Petition 12 of 2023) [2023]*

#As I understand it, the doctrine of ripeness prohibits actions before the court when certain antecedents relevant to the maturity of the claim or cause of action have not occurred... The final decision was yet to be made, hence, there is no decision to be quashed. The goal of ripeness’ is to prevent premature adjudication; dispute is insufficiently developed, any potential injury or stake is too speculative to warrant judicial action.#

6. That the Honourable Court is not suited to supervise or suspend internal deliberations of a legislative body, especially where strict timelines are imposed by law and where any interruption may paralyze constitutionally-assigned mandates of the Respondents and thus Conservatory reliefs, in



such circumstances, would result in the respondent legislative paralysis and constitutional overreach by the Honourable Court.

7. That the Respondents respectfully contend that the Honourable Court lacks jurisdiction to entertain or consider the Application and Petition dated 30th June 2025, the same being premature and inviting judicial interference in an ongoing legislative process; and therefore, the Petition and Application dated 30th June 2025 by the petitioners ought to be dismissed with costs to the Respondents.

DATED at EMBU this 3rd day of July 2025.”

7. The Petitioner’s filed a Response to the Preliminary Objection dated 472025 raising an issue of breach of the constitutional rights of the petitioner in the process of impeachment as follows:

“Response To The Preliminary Objection

1. That the Notice of Preliminary Objection dated 3rd July 2025 lack merits on the grounds that:
2. The Preliminary objection purports that the legislative process started on 24th June 2014 but indeed, the legislative process under the County Assembly of Embu standing order No.76 is provided thereon to wit the motion for removal of office.
3. The Preliminary Objection offends the provisions of Article 165(d) and 165 (6) of *the Constitution* of Kenya 2010.
4. The Preliminary Objection offend the provisions of Article 48 of *the Constitution* of Kenya 2010.”

Submissions

8. Counsel for the parties, Mr. Njoroge for the Respondents and Ms. Migwi for the Petitioners made oral submissions urging their respective cases along the same lines set out in the Preliminary Objection and the Petitioner’s response thereto.
9. The Respondents’ Counsel highlighted his written submissions set out above and relied on case-law set out in the Preliminary Objection.
10. The Petitioner’s Counsel urged that the “issue before the Court is the respondents’ violation of the rights of the petitioner under Article 47 and 50 of *the Constitution* in the process and the conduct of the Respondents in respect to its actions on 1862025”, and cited the decision of the Employment and labour Relations Court Bor & 5 others v Kericho County Assembly & 4 others [2024] KEELRC 2080 (KLR), in support.

Determination

11. The issue fore determination in this case is whether the preliminary objection on the court’s jurisdiction should be upheld. As observed by the Court of Appeal for East Africa in Biscuit Manufacturing Co. Ltd vs West End Distributors Ltd [1969] EA 696, the raising of a Preliminary



Objection presumes the acceptance of the petitioner’s case as presented in the pleadings. See Mukisa Biscuits case at pp. 700-1 as follows:

“(per Law JA):

A Preliminary Objection consists of a point of law which has been pleaded, or which arises by clear implication out of pleadings and which if argued as a preliminary point may dispose of the suit. Examples are an objection to the Jurisdiction of the court or a plea of limitation, or a submission that the parties are bound by the contract giving rise to the suit to refer the dispute to arbitration.

(per Sir Charles Newbold, P.):

A Preliminary Objection is in the nature of what used to be a demurrer. It raises a pure point of law which is usually on the assumption that all the facts pleaded by the other side are correct. It cannot be raised if any fact has to be ascertained or if what is sought is the exercise of judicial discretion....”

12. Consequently, the Court shall only consider the facts of the case as laid out by the Petitioner in the Petitioner and Notice of Motion for conservatory order.
13. The present case follows the exact script of *Justus Kariuki Mate & Another v. Martin Nyaga Wambora & Another*, Petition No. 32 of 2014; [2017] eKLR as summarised in the Kenya Judiciary Publication “Indigenous Jurisprudence A Synopsis of Selected Cases of the Supreme Court of Kenya”, as follows:

“This was a matter of an appeal from a finding of contempt of court against the County Assembly of Embu which had been restrained by the High Court from holding impeachment proceedings against the sitting Governor without first serving him with a notice containing specific grounds or charges upon which the impeachment was being proposed, and without giving him an opportunity to be heard. The County Assembly despite being served with the Orders of the Court in the local dailies approved the impeachment motion leading the Governor to file contempt proceedings seeking to commit the Speaker and the Clerk of the County Assembly to civil jail for a period of 6 months. In response to the application the Speaker and the Clerk denied having been served with any Court Order and that they had wrongly been held in contempt as they were never parties to the proceedings before the Court. The High Court did not find merit in their response and proceeded to hold them in contempt. The Court also proceeded to find that any, consequent resolutions made in disobedience of the Court Order were, in effect, void ab initio, and a nullity in law.

The Speaker and the Clerk of the County Assembly dissatisfied with the holding of the High Court appealed to the Court of Appeal but the Appellate Court affirmed the decision of the High Court Judge. They then appealed to the Supreme Court but the Respondent raised a preliminary objection stating that the matter arose out of contempt proceedings in the High and did not raise a matter of constitutional application or interpretation and neither had the appeal been certified as one of general public importance. It was the Speaker and Clerk’s contention that various provisions of *the constitution* had been violated and therefore the Court needed to intervene. They also urged the Court to find that the High Court had no place to interfere in parliamentary processes that had already commenced. Parliamentary privilege was also cited as the reason for failing to provide specific charges that were being levelled against the Governor. The Respondent on the other hand submitted that separation of powers between the Legislature, the Executive and the Judiciary is a subject falling to the



supervisory jurisdiction of the Court, and that the High Court acted within its jurisdiction in issuing the conservatory orders. It was also the Respondent's position that the violation of *the constitution* alluded to by the Speaker and the Clerk was never urged before the High Court or the Court of Appeal. On the issue of jurisdiction, it was held that such an expansive scope to the concept of "interpretation and application of *the Constitution*", readily grasps different issues of law – such as contempt Orders and that the law of contempt of Court can hardly be screened from the grasp of "interpretation and application of *the Constitution*."

It was the Court's finding that no arm of Government is above the law and that the Court's mandate, where it applies, is for the purpose of averting any real danger of constitutional violation however the Court did not agree with the finding of the High Court and Court of Appeal citing the Speaker and the Clerk in contempt and stated that the integrity of Court Orders stands to be evaluated in terms of their inner restraint, where the express terms of *the Constitution* allocate specific mandates and functions to designated agencies of the State. Such restraint, in the context of express mandate-allocation under *the Constitution*, is essential, as a scheme for circumventing conflict and crisis, in the discharge of governmental responsibility. No governmental agency should encumber another to stall the constitutional motions of the other. The Court set aside the orders of the High Court and Court of Appeal with regards to stopping parliamentary procedures."

14. The Court has respectfully noted the persuasive authority of the Employment and Labour Court in *Bor & 5 others v Kericho County Assembly & 4 others* [2024] KEELRC 2080 (KLR), which was cited by the Petitioners. Wasilwa, J. reasoned in the case that:

- "81. I have examined all the averments and submissions of the parties herein. Flowing from this court's ruling dated 8th February 2024, this court issued conservatory orders restraining the 4th Respondent, their agents, servants or any person whatsoever from initiating the removal process of the Petitioner in relation to recommendations made by the 1st 2nd and 3rd Respondents pending the hearing and determination of this petition.
82. The reason for the interim orders were informed by the finding of this court that the Ad hoc Committee put in place by the County Assembly made recommendation for the removal of the Petitioner without according them any right to be heard.
83. I also determined that Chief Officers are employees of the County Public Service Board (CPSB) and can only be removed from office by the said head exercising its disciplinary mandate under section 55 of the County Government Act.
84. It was therefore true that the recommendations for the removal of the Chief Officer by an Adhoc Committee could not lie.
85. Having established as above, what remains to be resolved in this petition are the final remedies to be granted in relation to the processes that were initiated by the Respondents and which this court found was unprocedural.
86. Indeed the County Assembly has its mandate and which must be exercised responsibly as per the laid down law. However, it is clear as established that



the 1st to 3rd Respondents breached the law and procedure usurping even the mandate of the CPSB to recommend removal of Chief Officers.

87. It is indeed true that the 1st Respondent through the Ad hoc Committee formed on 1st August 2023 proceeded without fair procedure and so violated the Petitioners Constitutional rights under Articles 47, 41 and 50 of *the Constitution*.
88. It is also true that in the circumstances of the case, the process commenced without following due procedure cannot be allowed to proceed.”
15. The Court was referred to the decision to the Supreme Court decision in *Mate v Wambora* and it would appear that the decision is right on its facts, and in any event distinguishable, as it involved an issue of discipline of chief officers appointed by the County Public Service Board under section 55 of the County Government Act and not an issue of removal of county executive committee members who are appointed under section 35 of the Act and their process of removal through the County Assembly is set out in section 40 of the County Government Act.
16. The question, therefore, remains whether the Court will interfere with the legislative process of the County Assembly, in the first instance, to stop the consideration of the matter by the County Assembly on account of alleged infringement of rights of the petitioner or allow the County Assembly to complete its processes and subsequently exercise the Court’s supervisory jurisdiction to review the decision of the County Assembly as a quasi-judicial body.
17. The facts as pleaded in this case do not demonstrate an impeachment process founded on an obviously frivolous case, such as would entitle this court to interfere at this stage.
18. From the documents attached to the Petition and the Notice of Motion by the Supporting Affidavits of the Petitioner sworn on 25/6/2025 as JKNK 1, the charges cannot be said to be frivolous or raising no probable or reasonable cause for the charge levelled:

“County Assembly Of Embu Plenary Sitting.

Witness Summons

To: Prof. Ioe Kinyua Kamaria, County Executive Committee - Member, Finance And Economic Planning

WHEREAS, Article 195 of *the Constitution* and Section 22 of the County Assemblies (Powers and Privileges) Act (Cap. 265C)), as read together with Section 8(2) of the *County Governments Act*, 2012 empower the County Assembly or any of its committees to summon any person to appear before it for the purpose of giving evidence or providing information;

Particulars that you failed, ignored and/or neglected to honour the County Assembly request to provide information to the Committee on Finance and Economic Planning made vide letter REF: CAELEGIOVOL-46(36) dated 4th July, 2024;

AWARE that the County Assembly 11th March, 2025 adopted the report the Committee on Finance and Economic Planning and resolved that you being the County Executive Member responsible for Finance and economic Planning, do appear before the Committee of the Whole to show cause why the County Assembly should not invoke the provisions of section 27 of the County Assemblies (Powers and Privileges) Act (Cap. 265C).

NOW THEREFORE, the County Assembly pursuant to the provisions of Article 195 of *the Constitution*, section 18 of the County Assemblies (Powers and Privileges) Act



together with Section 8 (2) of the *County Governments Act*, 2012, and Standing orders NO. 49 (Admittance County Executive Committee Members) of Embu County Assembly Standing Orders, summons you to appear, in person, before the County Assembly Committee of the Whole House on 17th June, 2025 at the County Assembly of Embu Chambers at 9.30 a.m. to respond to the allegations contrary to Section 22 and 27 of the County Assemblies (Powers and Privileges) Act (Cap. 265C)).

You are required to prepare and submit five (5) copies of your written response and any other relevant documents to corroborate your response to the Clerk of County Assembly of Embu by Monday 16th June 2025 at 2.30 p.m”

19. The Court has also perused the Hansard record of the proceedings at the County Assembly on 18/6/2024 and the resolution of the House, and it cannot be said that the proceedings were in obvious breach of the Petitioner’s right to be heard especially given the fact that the removal proceedings are further governed by an elaborate procedure of section 40 (4), (5) and (6) of the County Government Act set out below. It would also appear that the charges levelled against the Petitioner and which he was required to respond by the Witness Summons invitation through “written response and any other relevant documents to corroborate your response” were clearly set out in the “PARTICULARS that you failed, ignored and/or neglected to honour the County Assembly request to provide information to the Committee on Finance and Economic Planning made vide letter REF: CAELEG1OVOL-46(36) dated 4th July, 2024”.

20. Moreover, section 40(3) of the County Government Act does not read to require a preliminary inquiry before the process of removal of a County Executive Committee Member may be launched, and the Petitioner may not build a strong case on a gratuitous occurrence. Section 40 (2) (3) of the *County Governments Act* merely provides that-

“(2) A member of the county assembly, supported by at least one third of all the members of the county assembly, may propose a motion requiring the governor to dismiss a county executive committee member on any of the grounds set out in subsection (1).

(3) If a motion under subsection (2) is supported by at least one third of the members of the county assembly—

(a) the county assembly shall appoint a select committee comprising five of its members to investigate the matter; and

(b) the select committee shall report, within ten days, to the county assembly whether it finds the allegations against the county executive committee member to be substantiated.”

21. Standing Order 76 of The Standing Orders Of The Embu County Assembly provide for the procedure for the motion under section 40 of the Act, and Standing Order 77 gives the right to be heard to the County Executive Committee Member in terms that –

“Right to be heard

77.

(1) Whenever *the Constitution*, any written law or these Standing Orders—



- (a) requires the County Assembly to consider a petition or a proposal for the removal of a person from office, the person shall be entitled to appear before the relevant Committee of the County Assembly considering the matter and shall be entitled to legal representation;
 - (b) requires the County Assembly to hear a person on grounds of removal from office, or in such similar circumstances, the County Assembly shall hear the person—
 - (i) at the date and time to be determined by the Speaker;
 - (ii) for a duration of not more two hours or such further time as the Speaker may, in each case determine; and
 - (iii) in such other manner and order as the Speaker shall, in each case, determine.
- (2) The person being removed from office shall be availed with the report of the Select Committee, together with any other evidence adduced and such note or papers presented to the Committee at least three days before the debate on the Motion.
 - (3) During the debate any Member may, with the permission of the Speaker and on giving adequate notice, produce additional evidence in support of his or her argument.
 - (4) When the Speaker is satisfied that the Motion has been adequately debated, the Speaker Shall call upon the person who is being removed from office to answer issues raised in the debate, and thereafter call upon the mover of the Motion to reply.”

22. However, the merits of the case against the Petitioner before the Assembly is a matter for the determination by the particular Assembly upon hearing the case for removal of the petitioner, not for the Court. So, the Court cannot arrogate to itself the determination as to whether the allegations are or reasonable, well founded or baseless.
23. There would appear to be a reasonable case presented by the Respondent in the charge documents fit for investigation by the County Assembly in accordance with the procedure laid out in section 40 of the *County Governments Act*.
24. By near analogy, the position appears to coincide with the position in criminal trials where the appellate court does not interfere with the conduct of the trial until conclusion of the trial with a conviction or an acquittal, when the convicted person or the DPP may appeal the outcome of the trial. It is conceded that the High Court has constitutional and supervisory jurisdiction, and it does not mean the High Court condoned an unfair trial; all that happens is that the High Court gives deference to the constitutionally appointed method of trial of accused persons who have rights to a fair trial protected



- under *the Constitution*, the breach of which in the course of the trial, the High Court can redress on appeal or by supervisory jurisdiction.
25. Ditto in this case.
 26. The Court is bound by the decision of the Supreme Court in *Mate v. Wambora* and the Court of Appeal in the *Mwangaza* case to defer to the process of the Parliamentary Procedures in the first instance. It is not, with respect, an issue of ripeness or justiciability of the petitioner’s claim. It is, in my view, a judicial policy of considerable merit that one constitutional organ should defer to another constitutional organ within the frame work of the separation of powers, where the judicial prerogative power may be exercise as a review method of the actions of the two other constitutional prerogative powers – the Legislative and the Executive.
 27. Of course, if it were established clearly that the process undertaken by the constitutional organ was a violation of rights, or so clearly threatened to violate the rights of the claimant, the Court should not hesitate to interfere. So, it is not an issue of justiciability or ripeness. It is restraint.
 28. It is, in our case, judicial restraint, “in the context of express mandate-allocation under *the Constitution*, is essential, as a scheme for circumventing conflict and crisis, in the discharge of governmental responsibility. No governmental agency should encumber another to stall the constitutional motions of the other. The Court set aside the orders of the High Court and Court of Appeal with regards to stopping parliamentary procedures.”
 29. Under section 40 (4), (5) and (6) of the County Government Act, a County Executive member who is under investigation for removal is entitled to a fair trial by clear provisions that:
 - “(4) The county executive committee member has the right to appear and be represented before the select committee during its investigations.
 - (5) If the select committee reports that it finds the allegations—
 - (a) unsubstantiated, no further proceedings shall be taken; or
 - (b) substantiated, the county assembly shall vote whether to approve the resolution requiring the county executive committee member to be dismissed.
 - (6) If a resolution under subsection (5)(b) is supported by a majority of the members of the county assembly—
 - (a) the speaker of the county assembly shall promptly deliver the resolution to the governor; and
 - (b) the governor shall dismiss the county executive committee member.”
 30. The fair trial procedure is also constitutionally underpinned under Article 50 of *the Constitution*. Where there is a denial of the fair trial rights in the course of the proceedings before the County Assembly, the Court may upon a review redress such violation. Such is my understanding of the ‘in the first instance’ deference to the parliamentary procedure on matters under the constitutional competence of the Parliament or County Assembly.
 31. Consequently, it would appear to me that the appropriate order in the circumstances of this case is not an order striking out, or dismissing the petition and the application, as urged by the respondents.



Rather, the appropriate order is a stay or holding in abeyance the petition and applications therein until the determination of the parliamentary process, when the Court shall review the matter, with any necessary amendments to update the circumstances of the case.

32. The Court shall, therefore, hold the petition and applications in abeyance to await the conduct and conclusion of the parliamentary process whereupon a review of the matter, as necessary, will be conducted by the Court.

Orders

33. Accordingly, the Petition and the motions filed thereunder by the petitioner shall be stayed pending the determination of the proceedings before the County Assembly of Embu.
34. This matter shall be mentioned on Monday 14/7/2025 for further orders/directions.
35. There shall be no order as to costs.

Order accordingly.

DATED AND DELIVERED AT KERUGOYA THIS 7TH DAY OF JULY 2025

EDWARD M. MURIITHI

JUDGE

Appearances:

Ms. Kiragu with Ms. Migwi for Petitioner/Applicant.

Mr. Njoroge for Respondent.

