



**Loriko & 3 others (Suing on their own Behalf and as Officials of Bunge Staff Club)  
v Cooperative Bank of Kenya Limited & 3 others (Commercial Case E840 of 2025)  
[2025] KEHC 13375 (KLR) (Commercial and Tax) (26 September 2025) (Ruling)**

Neutral citation: [2025] KEHC 13375 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)  
COMMERCIAL AND TAX  
COMMERCIAL CASE E840 OF 2025  
FG MUGAMBI, J  
SEPTEMBER 26, 2025**

**BETWEEN**

**JAVAN NANG'EYO LORIKO ..... 1<sup>ST</sup> PLAINTIFF  
ELJAH ICHWARA ..... 2<sup>ND</sup> PLAINTIFF  
GODFREY LUMANYI NAMUBATSI ..... 3<sup>RD</sup> PLAINTIFF  
DANIEL MUNYAO ..... 4<sup>TH</sup> PLAINTIFF  
SUING ON THEIR OWN BEHALF AND AS OFFICIALS OF BUNGE STAFF  
CLUB**

**AND**

**COOPERATIVE BANK OF KENYA LIMITED ..... 1<sup>ST</sup> DEFENDANT  
PETER CHEMWENO ..... 2<sup>ND</sup> DEFENDANT  
JANE MPARU MUKINDIA ..... 3<sup>RD</sup> DEFENDANT  
FAITH MAKENA ..... 4<sup>TH</sup> DEFENDANT**

**RULING**

**Background and Introduction**

1. This ruling determines two applications. The first is dated 12<sup>th</sup> August 2025 and is filed by the plaintiffs, and the second is dated 20<sup>th</sup> August 2025 and is filed by the National Assembly, a proposed 6<sup>th</sup> defendant.



2. At the heart of the dispute is the legitimacy of officials of the Bunge Staff Club (the “Society”) and, consequently, the rightful signatories to the Society’s bank account domiciled at the 1<sup>st</sup> defendant’s Parliament Road Branch (the “Account”).
3. The plaintiffs assert that they are the duly elected officials of the Society, having been elected at a Special General Meeting held on 28<sup>th</sup> June 2025 and subsequently recognized by the Registrar of Societies on 4<sup>th</sup> July 2025. Despite formally notifying the 1<sup>st</sup> defendant (the bank) of their appointment, the bank declined to acknowledge them as the legitimate signatories to the Society’s account, instead continuing to recognize the 2<sup>nd</sup> to 4<sup>th</sup> defendants, who are the immediate former officials.

#### **Application dated 12<sup>th</sup> August 2025**

4. As a result, the plaintiffs filed the application dated 12<sup>th</sup> August 2025 seeking various injunctive orders. Primarily, they sought to restrain the 2<sup>nd</sup> to 4<sup>th</sup> defendants from operating or dealing with the Society’s account and from presenting themselves as officials of the Society. They also sought orders compelling the Bank to grant them access to the account to enable them to process staff salaries, procure food supplies, and manage the Society’s affairs. Additionally, they sought a permanent injunction to restrain the 2<sup>nd</sup> to 4<sup>th</sup> defendants from interfering with their functions as the legitimate officials.
5. The application is supported by an affidavit sworn by Javan Nang’eyo Loriko, the alleged elected chairman. He reiterated that the plaintiffs’ election was valid, recognized by the Registrar of Societies, and that the 2<sup>nd</sup> to 4<sup>th</sup> defendants have unlawfully retained control of the account. He further noted that the account holds approximately Kshs 23 million, which is urgently needed to meet operational obligations, and that there is a risk of unauthorized withdrawals if the current situation persists.
6. The bank opposed the application through a replying affidavit sworn on 8<sup>th</sup> September 2025 by Alice Macharia, its branch manager, Parliament Road Branch. The bank acknowledged receipt of communications regarding the change of officials and the updated list of account signatories. It however contended that it was unable to effect the signatory mandate changes because the plaintiffs had failed to meet the stipulated conditions for such a modification. Specifically, it was argued that the proposed signatories did not comply with the Society’s constitution, since three of the elected officers and signatories were staff members from the Senate, thereby excluding representatives from the National Assembly and the Parliamentary Joint Service, as mandated by the [Constitution](#).
7. Based on the foregoing, the bank further noted that an internal dispute had arisen between the plaintiffs and the 2<sup>nd</sup> to 4<sup>th</sup> defendants concerning the validity of the society’s elections and signatories to the account. It maintained that it had no vested interest in this dispute and would comply with the court’s determination on who the rightful signatories were. The bank restated that it had acted neutrally and without favour to either side. Therefore, it contended that no claim could be validly brought against it, and it should be struck out from the proceedings at the earliest stage.
8. The 2<sup>nd</sup> to 4<sup>th</sup> defendants opposed the application through a preliminary objection dated 19<sup>th</sup> August 2025, together with a replying affidavit sworn by Peter Chemweno on 26<sup>th</sup> August 2025. In their preliminary objection, the defendants contended that this Court lacks jurisdiction to entertain both the suit and the application. Their objections were premised on four main grounds. First, that the plaintiffs had not exhausted the statutory dispute resolution mechanisms under section 18 of the [Societies Act](#), Cap 108, which specifically provides for the resolution of disputes relating to the election, recognition, or removal of officials of a society, thereby offending section 9(2) of the [Fair Administrative Action Act](#).



9. Second, that the Court lacks subject matter jurisdiction since the dispute, whose substratum is the leadership and recognition of officials of a society, raises issues properly falling within the realm of public law remedies to be pursued by way of judicial review, and not as a commercial dispute. Third, that the plaintiffs lack locus standi to institute and maintain these proceedings. Fourth, that the suit is sub judice and offends section 6 of the Civil Procedure Act, given the pendency of a similar suit between the same parties over the same subject matter in Nairobi Civil Case No. E817 of 2025.
10. The 2<sup>nd</sup> to 4<sup>th</sup> defendants argued that the elections were conducted in blatant contravention of both the Societies Act and the Constitution of the society. They described the process as irregular, unlawful, null and void. Specifically, they contended that the elections failed to comply with the mandatory quotas prescribed in the Constitution; that the notice convening the meeting was inadequate and defective; that there was no proper verification of attendees; that virtual attendance was facilitated through unverified emails and contacts; and that non-members were improperly allowed to participate. They further emphasized that the election was neither supervised by the Registrar of Societies nor adequately publicized within the precincts of Parliament, thereby depriving members of a fair opportunity to participate.
11. They also challenged the subsequent recognition of the plaintiffs as officials of the society by the Registrar of Societies. They asserted that the Registrar endorsed the plaintiffs without verifying their appointments or according the defendants a fair hearing. They stated that they had formally lodged objections with the Registrar by a letter dated 8<sup>th</sup> July 2025, which complaints were ignored. In addition, they raised concerns regarding the suitability of some of the elected officials, questioning their financial responsibility and expressing apprehension that, if allowed to manage the society's accounts, members' funds would be exposed to mismanagement.
12. On the reliefs sought, the 2<sup>nd</sup> to 4<sup>th</sup> defendants maintained that the plaintiffs had not satisfied the threshold for the grant of injunctive relief. They submitted that the plaintiffs were in effect seeking sweeping mandatory orders at an interlocutory stage, which if granted, would prematurely and conclusively determine the entire dispute contrary to well-established legal principles. They stressed that the balance of convenience favoured the preservation of the status quo, particularly the retention of the current signatories to the society's bank accounts, until the legality of the impugned elections was conclusively determined.

#### **Application dated 20<sup>th</sup> August 2025**

13. By this application the National Assembly (the intended 5<sup>th</sup> defendant) sought to be joined in the proceedings as a defendant. It also prayed that an order be issued preserving the status quo with respect to the management and operations of the society pending the hearing and determination of the suit, together with costs of the application.
14. The application was supported by an affidavit sworn by Samuel Njoroge, a Clerk of the National Assembly. He deposed that the plaintiffs were not recognized as duly elected officials of the society, the elections through which they claimed to derive authority having been irregular, a sham, and devoid of legitimacy.
15. The National Assembly further asserted that the society in question had initially been established by staff of the National Assembly and subsequently by staff of Parliament at large. As such, the society had historically been facilitated by the National Assembly through the Parliamentary Service Commission, which provided premises, equipment, and utilities within the precincts of Parliament. It was additionally emphasized that approximately three-quarters of the society's membership comprised staff of the National Assembly, and that the management and operations of the society fell squarely



within the broader constitutional mandate of the Parliamentary Service Commission. On this footing, the National Assembly contended that, as the custodian of the rights and interests of its staff who formed the majority of the membership, it had a direct and substantial stake in the dispute which justified its joinder as a party.

16. Beyond the issue of joinder, the National Assembly also contended that the plaintiffs had failed to comply with the mandatory dispute resolution mechanism set out under section 18 of the *Societies Act*, Cap 108, and that this omission rendered the proceedings premature and incompetent. It was further its position that the suit, having been instituted by way of a miscellaneous application despite raising substantive issues of governance, leadership, and membership rights, was procedurally flawed and could not properly be sustained.
17. The plaintiffs opposed the application through a replying affidavit sworn by Javan Nang'eyo Loriko on 25<sup>th</sup> August 2025. They averred that the National Assembly was neither directly involved in the subject matter of the suit nor did it have any supervisory mandate over the society. On that basis, they urged that the proposed 5<sup>th</sup> defendant had not sufficiently demonstrated a legal or beneficial interest in the proceedings to warrant its joinder.
18. Despite the Court's directions of 21<sup>st</sup> August 2025 requiring parties to file their responses and submissions to the two applications and the preliminary objections, no party filed submissions in relation to the second application. Nevertheless, guided by the Supreme Court's pronouncement in *Aviation & Allied Workers Union Kenya v Kenya Airways & Others*; SC Application No. 50 of 2014 [2015] eKLR, that whenever a party raises an objection to the Court's jurisdiction such objection must be addressed as a preliminary issue before any consideration of the merits of the cause, I find it necessary to first determine the jurisdictional objection raised in the first application.

### **Analysis and Determination**

19. The jurisdiction of this Court was challenged by the 2<sup>nd</sup> to 4<sup>th</sup> defendants. They urged that the plaintiffs had not exhausted the statutory mechanism for resolution of disputes concerning the officials of a society as provided under section 18 of the *Societies Act*, Cap 108. On that basis, they submitted that the application for injunction was incompetent, lacked a legal foundation, and offended the provisions of the Act.
20. The plaintiffs, on the other hand, contended that the suit did not offend section 18 of the *Societies Act*. They argued that the 2<sup>nd</sup> to 4<sup>th</sup> defendants had themselves lodged a complaint with the Registrar of Societies on 8<sup>th</sup> July 2025 disputing the plaintiffs' election as officials. However, the Registrar, having considered the matter, was satisfied that no dispute existed requiring resolution under the Act.
21. It was in this context that the Court was called upon to consider the doctrine of exhaustion. The jurisprudence on this principle is both longstanding and elaborate. In *Speaker of the National Assembly v Karume* [1992] KLR 21, the Court of Appeal emphasized that where a specific procedure for the redress of grievances is prescribed by the *Constitution* or statute, such procedure must be strictly followed. Although that case was decided before the 2010 *Constitution*, its reasoning has repeatedly been applied in subsequent jurisprudence as justification for the exhaustion doctrine.
22. A five-judge bench in *William Odhiambo Ramogi & 3 others v Attorney General & 4 others; Muslims for Human Rights & 2 others (Interested Parties)* [2020] eKLR elaborated that the exhaustion doctrine requires that parties pursue available remedies before statutory bodies prior to moving to court. The purpose of the doctrine is to postpone judicial consideration of disputes until a party has diligently utilized the mechanisms established outside the courts.



23. In *R v Independent Electoral and Boundaries Commission & Others Ex Parte NASA* [2017] eKLR, the High Court undertook an exhaustive review of Kenyan jurisprudence and recognized important exceptions to the doctrine. The Court held that in determining whether to apply an exception, courts must consider the nature of the dispute, the level of public interest involved, and whether the statutory forum is capable of addressing the grievance. An exception would especially arise where issues of constitutional interpretation are raised, or where a party would be denied adequate or proportionate audience before the statutory forum.
24. Similarly, the five-judge bench in *William Odhiambo Ramogi (supra)* affirmed two guiding principles: first, that in exceptional circumstances, courts may hold that the exhaustion requirement would not serve constitutional values and may permit a matter to proceed. Second, that the jurisdiction of courts to hear valid grievances cannot be ousted where the statutory forum does not provide an adequate or proportionate audience to the party seeking redress.
25. The Court of Appeal in *Kenya Ports Authority v William Odhiambo Ramogi & 8 others* [2019] eKLR endorsed this reasoning, citing its earlier decision in *Speaker of the National Assembly v Njenga Karume* (1990-1994) EA 546. The same court in *Geoffrey Muthinja & another v Emanuel Muguna Henry & 1756 others* [2015] eKLR reiterated that courts are to be fora of last resort, and not the first port of call whenever disputes arise in voluntary associations such as churches or societies.
26. The Supreme Court has also consistently upheld this principle. In *Albert Chairemba Mumba & 7 others v Maurice Munyao & 148 others* [2019] KESC 83 (KLR), the Court held that even where superior courts have jurisdiction to determine weighty constitutional or legal issues, parties must first present their grievances before the statutory or quasi-judicial bodies mandated by law to resolve them. Courts are required to exercise restraint and to give deference to such forums, intervening only as a last resort.
27. From the foregoing authorities, it is evident that the doctrine of exhaustion obliges parties to first pursue all available statutory and administrative remedies before seeking recourse in court. The central question, therefore, was whether, in the circumstances of this case, there existed any statutory dispute resolution mechanism under the *Societies Act* that the plaintiffs ought to have invoked prior to filing the present suit.
28. This answer is to be found in the *Societies Act*, an Act of Parliament enacted to provide for the registration and control of societies. Section 8 establishes the office of the Registrar of Societies and mandates the Registrar to perform the duties and exercise the powers conferred under the Act. Of particular relevance is section 18, which provides a statutory mechanism for the resolution of disputes concerning the officials of a registered society. It stipulates that:
 

“Where the Registrar is of the opinion that a dispute has occurred among the members or officers of a registered society as a result of which the Registrar is not satisfied as to the identity of the persons who have been properly constituted as officers of the society, the Registrar may, by order in writing, require the society to produce, within one month, evidence of the settlement of the dispute and of the proper appointment of lawful officers, or evidence of the institution of proceedings for the settlement of the dispute. If the order is not complied with, the Registrar may cancel the registration of the society. A society aggrieved by such cancellation may appeal to the High Court within thirty days”.
29. Section 18 therefore vests in the Registrar of Societies the initial jurisdiction to address leadership disputes within registered societies. The Registrar is empowered to inquire into such disputes, issue orders and determine whether the lawful officers of a society had been properly appointed.



30. It is not in dispute that the Bunge Staff Club was registered as a society in 2020, thereby bringing it within the ambit of the *Societies Act*. The central question in the matter was who the rightful officials of the society were. In other words, whether the 2<sup>nd</sup> to 4<sup>th</sup> defendants had been lawfully removed from office, and whether the plaintiffs were duly elected as officials. The issue of signatories to the society's bank account with the 1<sup>st</sup> defendant flowed directly from this leadership dispute.
31. It is evident that the matter before me concerns the affairs of a registered society, specifically the validity of its officials. Such disputes fall squarely within the jurisdiction of the Registrar under section 18 of the Act. The plaintiffs' reliance on the Registrar's purported recognition letter of 4<sup>th</sup> July 2025 is in my view misplaced, as that letter did not address or resolve the concerns subsequently raised by the 2<sup>nd</sup> to 4<sup>th</sup> defendants through their complaint dated 8<sup>th</sup> July 2025. Indeed, the Registrar had not yet issued any determination as contemplated under section 18. I therefore find that this dispute is prematurely before me.

### **Final Orders**

- i. Accordingly, the 2<sup>nd</sup> to 4<sup>th</sup> defendants' notice of preliminary objection dated 19<sup>th</sup> August 2025 is hereby allowed. The applications herein and proceedings are therefore struck out.
- ii. Each party shall bear its own costs.

**DATED, SIGNED AND DELIVERED IN NAIROBI THIS 26<sup>TH</sup> DAY OF SEPTEMBER 2025.**

**F. MUGAMBI**

**JUDGE**

