



**Banticha v Government Press & another; Clerk - Isiolo County Assembly
& another (Interested Parties) (Employment and Labour Relations Petition
E139 of 2025) [2025] KEELRC 2983 (KLR) (29 October 2025) (Ruling)**

Neutral citation: [2025] KEELRC 2983 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
EMPLOYMENT AND LABOUR RELATIONS PETITION E139 OF 2025
HS WASILWA, J
OCTOBER 29, 2025**

BETWEEN

HON ABDULLAHI JALDESA BANTICHA PETITIONER

AND

THE GOVERNMENT PRESS 1ST RESPONDENT

THE HON ATTORNEY GENERAL 2ND RESPONDENT

AND

THE CLERK - ISIOLO COUNTY ASSEMBLY INTERESTED PARTY

HON MOHAMED ROBA KOTO INTERESTED PARTY

RULING

1. The Respondent/Applicant filed a Notice of Motion dated 11th July 2025 seeking orders that: -
 1. Spent
 2. Pending the hearing and determination of this Application inter parties, this Honourable Court be pleased to issue an order, temporarily restraining the Respondents from de-gazetting the Applicant as the Speaker of Isiolo County Assembly, revocation of Gazette Notice No. 8667 in Vol CXXVII- N0. 139 of 27th June 2025, and if such revocation or de-gazettement has already taken place, the effect of the same be stayed.
 3. Pending the hearing and determination of the Petition filed herewith, this Honourable Court be pleased to issue an order, temporarily restraining the Respondents from de-gazetting the Applicant as the Speaker of Isiolo County Assembly, revocation of Gazette Notice No. 8667 in



Vol CXXVII- N0. 139 of 27th June 2025, and if such revocation or de-gazettement has already taken place, the effect of the same be stayed.

4. This Honourable Court be pleased to grant any orders as it may deem fit in the interests of Justice.

Petitioner/Applicant's Case

2. The Applicant avers that he was duly gazetted as the Speaker of the Isiolo County Assembly vide Gazette Notice No. 8667 published in Vol. CXXVII- N0 139 on 27th June 2025. Following the gazettement, he was sworn into office as the Speaker on 26th June 2025, in strict adherence to Sections 9A of the [County Governments Act](#) and Standing Order Number 13 of the Isiolo County Assembly Standing Orders. Subsequently, he assumed office.
3. The Applicant avers that he has since learnt of a letter dated 9th July 2025 addressed to the 1st Respondent, seeking to compel it to arbitrarily and unlawfully, degazette and remove him from the Office of the Speaker, Isiolo County Assembly.
4. The Applicant avers that having duly gazetted, sworn in and assumed office of the Speaker of County Assembly, he can only be removed from office in accordance with the provisions of section 11 of the [County Governments Act](#).
5. It is the Applicant's case that contrary to the mandatory provisions of section 11 of the [County Governments Act](#), no notice of motion supported by a third of the members of the Isiolo County Assembly has been moved to remove him as the Speaker of the Isiolo County Assembly. Moreover, there is no resolution to remove the Applicant from office supported by two thirds majority of the members of the Isiolo County Assembly as mandated by Section 11 of the Act.
6. The Applicant avers that there is reasonable apprehension that the Respondents will cave in to political pressure and maneuvers of other third parties intended to illegally remove him from office through de-gazetting his appointment whereas this can only be done after an election as per the laid down legal framework.
7. It is the Applicant's case that unless this court intervenes and grants the prayers sought in the application, the threat to his unlawful, unprocedural and arbitrary removal from office may materialize in total violation of his constitutionally protected rights as the 1st Respondent may be compelled to take arbitrary and unlawful actions against him.
8. The Applicant avers that if the process is allowed to proceed unchecked, he faces the risk of unlawful removal from office, resulting in irreparable damage to his constitutional office, political reputation, and the effective functioning of county governance.
9. The Applicant avers that it is in the public interest that the issues raised be urgently determined to uphold constitutionalism, the rule of law, and the integrity of the office of the Speaker of County Assembly as a constitutional office.
10. It is the Respondent/Applicant's case that the Respondents will suffer no prejudice if the orders sought are granted as no party is prevented from approaching the court and seeking his removal in accordance with the laid out legal framework.

Respondents' Case

11. In response to the Application, the Respondents filed a notice of preliminary objection dated 17th July 2025 on the points of law:



1. There is no employer employee relationship exists between the petitioner and the respondents consequently the court lacks jurisdiction to adjudicate this matter by virtue of *the constitution* of Kenya, article 162(2)A and (3) as read with section 12 of the *Employment and Labour Relations Court Act*.
2. That by virtue of article 178 of *the constitution*, the speaker of a county assembly is an elected state officer and NOT an employee per-se consequently this court lack jurisdiction to entertain this petition.
3. That the petition herein is an abuse of the process of court as the petitioner deliberately failed to disclose to the court and withheld material particulars to the effect that on 14th July 2025 the Clerk of the County Assembly of Isiolo published a gazette notice pursuant to the provisions of Article 178 (2) of *the Constitution* of Kenya, as read together with section 9A of the *County Governments Act*, section 21 of the *Elections Act*, and Standing Order No. 5 of the County Assembly of Isiolo Standing Orders, as read together with Standing Order No. 13 of the same and notified the general public that the appointment of one Abdullahi Jaldesa Banticha the petitioner herein as the Speaker of the County Assembly Isiolo and Chairman of the Isiolo County Assembly Service Board had been revoked with effect from the 14th July 2025.
4. That had this information been disclosed to this honourable court, the court would not have issued the orders made on 15th July 2025.
5. That the issues raised in the petition are purely political and hence none justiciable.

The 1st Interested Party's Case

12. The 1st Interested Party, Salad Boru Guracha, filed a replying affidavit dated 16th July 2025.
13. The 1st Interested Party avers that on or about 26th June 2025, his office duly forwarded the name of the Applicant to the 1st Respondent for gazette as the duly elected Speaker of the County Assembly of Isiolo as well as the Chairman of the Isiolo County Assembly Public Service Board in compliance with the law and standing orders of Isiolo County Assembly.
14. Upon receipt of the letter, the 1st Respondent duly gazetted the Petitioner/Applicant as the Speaker of the County Assembly of Isiolo vide Gazette Notice No. 867 and published in Vol. CXXVII-No 139 on 27th June 2025. Subsequently, he was sworn in into office on 3rd July 2025 in accordance with section 9A of the *County Governments Act* as read together with Standing Order no 13 of Isiolo County Assembly Standing Orders; and he assumed office.
15. The 1st Interested Party avers that his office is aware of the existence of a letter dated 9th July 2025 from an entity that 'Treowe Empowering Trust' addressed to the 1st Respondent and demanding the revocation of the Gazette Notice gazetted the Petitioner/Applicant as the Speaker of the County Assembly of Isiolo.
16. It is the 1st Interested Party's case that the 1st Respondent lacks the requisite powers and or authority to revoke a Gazette Notice since its functions is limited to executing instructions of other entities which include the County Assembly of Isiolo as such, the gazette notice can only be revoked, varied and or altered vide express instructions from the County Assembly issued after due process has been followed.
17. The 1st Interested Party avers that having not authored and or made a revocation gazette notice revoking the election of the Petitioner/Applicant as the Speaker of County Assembly of Isiolo the



purported Gazette Notice 9513 published in Vol. CXXVII No. 152 on 14th July 2015 is a forgery and a misrepresentation of facts and true account of events.

18. The 1st Interested Party avers that Article 236(a) of *the Constitution*, protects public officers from being removed from office without following due process established by law for such removal. Additionally, under the law and standing orders of the County Assembly of Isiolo, there can only be one occupant of the Office of the Speaker of the County Assembly and that a former speaker ceases to hold office immediately upon gazettement of a new speaker.
19. The 1st Interested Party avers that the removal of a speaker from office is governed by section 11 of the *County Governments Act* 2012 which requires that such process be by way of a motion supported by a super majority (the magical two-thirds majority) and it is yet to receive and/or process for debate such motion.
20. It is the 1st Interested Party's case that the demanded for revocation of the Gazette Notice subject hereto is an unlawful, un-procedural, illegal and unconstitutional usurpation of the powers not only of the County Assembly but also of the People of Isiolo as envisaged in Article 1 as read together with Article 2.2 of *the Constitution*.

2nd Interested Party's Case

21. In opposition to the application, the 2nd Interested Party filed a replying affidavit dated 19th September 2025.
22. The 2nd Interested Party avers that he is the duly-elected Speaker of the County Assembly of Isiolo, elected by members of the County Assembly on 20 September 2022.
23. He contends that he has neither resigned his position as Speaker of the County Assembly of Isiolo, nor been removed from said office by Members of the County Assembly as contemplated in section 11 of the *County Governments Act*, Cap. 265 and in the Assembly's Standing Orders.
24. The 2nd Interested Party avers that Standing Order 63 of the County Assembly of Isiolo Standing Orders, provides that the process of removing a Speaker from office requires a Notice of Motion, approval by the Speaker within three days of the Motion, appointment of an ad hoc committee to investigate the allegations in said Motion (including issuance of appointment letters to the members of the committee), written invitation by the committee to the Speaker to defend himself/herself, and submission of the committee's report to the Assembly for debate and a vote.
25. He contends that there is no evidence that this process was ever undertaken, and that is for the simple reason that he was never removed from office at any point. All Assembly proceedings are livestreamed and curated on the Assembly's YouTube page (<https://www.youtube.com/@countyassemblyofisio|08541/featured>), Facebook page (<http://www.facebook.com/isiolocountyassembly>) and on the Assembly's website (<https://isioloassembly.go.ke/>), none of which have a record of any debate/deliberations for my removal from the office of the Speaker.
26. The 2nd Interested Party avers that in the Standing Orders 6—13 of the County Assembly of Isiolo Standing Orders, the process of electing a new Speaker of the Assembly includes nomination of candidates, a register of candidates and of their nomination papers, publication of a list of candidates and candidates' curricula vitae, and a vote during a sitting of the Assembly; notably, no evidence exists (not even nomination forms or the Hansard records) of this process ever taking place or of the Applicant/Petitioner ever being elected Speaker, and that is for the simple reason that no election was ever undertaken for a new Speaker and that the Applicant/Petitioner was never elected Speaker.



27. The 2nd Interested Party avers that sixteen out of the eighteen Members of the County Assembly of Isiolo deponed affidavits confirming that no election for Speaker of the Assembly other than that conducted on 20th September 2022 has ever been conducted and further that they never at any time elected the Applicant/Petitioner as Speaker of the Assembly.
28. The 2nd Interested Party avers that the Applicant/Petitioner is the County Executive Committee Member in charge of Finance in the County Government of Isiolo; he has never resigned from the position and he continues to serve in such position and to draw his salary with respect to said position.
29. It is the 2nd Interested Party's case that Gazette Notice No. 8667 which purportedly gazetted the Applicant/Petitioner as Speaker of the Assembly was revoked on 14th July 2025 through Gazette Notice No. 9513 after it became apparent to the relevant authorities that its publication was procured fraudulently. The legal effect of Gazette Notice No. 9513 is that the purported fraudulently appointment of the Applicant/Petitioner as Speaker is presumed not to have occurred.
30. Upon the fraudulent publication of Gazette Notice 8667, the Attorney-General requested the Directorate of Criminal Investigations (DCI) to investigate the circumstances under which the Applicant/Petitioner was gazetted as the Speaker, and the DCI interviewed sixteen (16) Members of the County Assembly and submitted a preliminary report to the Attorney-General which revealed that it was a case of forgery; based on the report, the Attorney-General advised the 1st Respondent to de-gazette Gazette Notice 8667.
31. The 2nd Interested Party avers that at the time of filing the Application and Petition, the Applicant/Petitioner was aware of the criminal investigation into the fraudulent Gazette Notice No. 8667 being conducted by the DCI, but nonetheless deliberately failed to disclose this material fact to the Court.

Petitioner/Applicant Submissions

32. The Applicant submitted on two issues: whether the Respondents' Preliminary Objection meets the threshold established in law; and whether the Application satisfies the test for the grant of conservatory orders.
33. The Applicant submitted that the jurisprudence on the nature and scope of preliminary objections is well settled in *Mukisa Biscuits Manufacturing Co. Ltd v West End Distributors Ltd (1969) EA 696*. For a preliminary objection to stand, it must satisfy three key thresholds: it must raise a pure point of law; it must be based on uncontested facts; and it must be capable, if successful, of disposing of the suit without further evidence.
34. The Applicant submitted that the Respondents ignored the jurisprudence which affirms that the removal of a speaker, being a dispute touching on service, tenure and constitutional labour rights of a state officer, falls squarely within the jurisdiction of this Court. It cited the High Court in *Nick Githinji Ndichu v Clerk, Kiambu County Assembly & Another [2014] eKLR* which was categorical that an employer–employee relationship exists whenever there is a “contract of service,” whether oral or written, expressed or implied, for wages or a salary. Nduma J emphasized that the law is not concerned with the manner of engagement or assumption of office, but with the existence of such a contract. This reasoning is directly applicable to the office of a speaker, where a structured tenure and remuneration flow from the County Assembly Service Board.
35. It is the Applicant's submission that the office of Speaker is not insulated from labour and service law. The Speaker's removal implicates contractual and constitutional rights, hence the Employment and Labour Relations Court is the proper forum to interrogate the legality of such removal.



36. The Applicant submitted that the Respondents allege that the Petitioner failed to disclose a Gazette Notice revoking his appointment. This is a disputed fact requiring evidentiary interrogation. It cannot be presumed as admitted nor resolved without hearing both parties in line with *Mukisa Biscuit* above, such contested factual issues are not suitable for a Preliminary Objection
37. The Applicant submitted that on whether a dispute is political or justiciable is not a self-evident legal fact but a substantive constitutional issue. The Supreme Court in *Speaker of the Senate v Attorney General* [2013] eKLR clarified that courts cannot shy away from disputes merely because they have political dimensions. This demonstrates that the issue requires substantive hearing and cannot be a pure point of law for summary disposal.
38. The Applicant submitted that the Respondents have not met the test of a proper Preliminary Objection as set out in *Mukisa Biscuit* (supra) and subsequent authorities such as *Oraro v Mbaja* [2005] eKLR.
39. On the second issue, the Applicant submitted that the test for the grant of conservatory orders is well settled by the Supreme Court in *Gatirau Peter Munya v Dickson Mwenda Kithinji & 2 Others* [2014] eKLR; wherein it observed that conservatory orders should be granted on the inherent merit of a case, bearing in mind public interest, constitutional values, and the proportionate magnitudes and priority levels attributable to the relevant causes.
40. The Applicant submitted that it has established an arguable case with a high probability of success. He has demonstrated that he was duly elected, gazetted, and sworn in as the Speaker of the Isiolo County Assembly in accordance with Article 178 of *the Constitution*, Section 9A of the *County Governments Act*, and Standing Order No. 13 of the Isiolo County Assembly. His assumption of office is therefore clothed with both constitutional and statutory legitimacy. The attempt to arbitrarily de-gazette him, absent compliance with Section 11 of the *County Governments Act*, constitutes a direct threat to his rights under Articles 41, 47, 50, 178, 232 and 236 of *the Constitution*.
41. It is the Applicant's case that unless this Court intervenes, he risks unlawful removal from a constitutional office without adherence to due process. Such action would irreparably prejudice him as the office of Speaker is a singular, constitutionally protected position whose loss cannot be compensated by damages. It would also undermine the principle of security of tenure for constitutional office holders safeguarded under Article 236(b).
42. The Applicant submitted that If the Respondents proceed to de-gazette the Applicant and unlawfully revoke Gazette Notice No. 8667, the substratum of the Petition will be completely lost. The Applicant will have already been removed from office, thereby rendering the Petition an academic exercise. Conservatory orders are thus necessary to preserve the subject matter of the Petition and ensure that the Court's eventual decision is not rendered illusory.
43. The Applicant submitted that the office of Speaker of a County Assembly is a constitutional office central to the functioning of devolved governance. It is in the public interest that the integrity of this office is protected from unlawful political manoeuvres and arbitrary administrative action. Granting the conservatory orders will preserve constitutional order and ensure continuity in the lawful operations of the Isiolo County Assembly, thereby serving the broader public interest.

1st Interested Party's Submissions

44. The 1st Interested Party submitted on three issues: whether the Employment and Labour Relations Court has powers to hear and determine the dispute before it; whether an injunctive order should issue



- to preserve the subs-stratum of the petition pending hearing and determination; and who should bear the costs.
45. On first issue, the 1st Interested Party submitted that the Respondents' argument that the jurisdiction of the Employment and Labour Relations Court must have a nexus to employer-employee relationship; is restrictive, limited and ignores the fact that the ELRC while exercising constitutional jurisdiction has the powers to hear and determine alleged threat to constitutional rights under Articles 27, 41, 47, 48 and 50 of [the Constitution](#).
 46. The 1st Interested Party submitted that the Employment and Labour Relations Court's jurisdiction under Article 162(2)(b) of [the Constitution](#) of Kenya, 2010 is broad and extends beyond the employer-employee relationship. It is important to note the ELRC is empowered to exercise jurisdiction in matters ancillary to its core jurisdiction under Section 12 of the [Employment and Labour Relations Court Act](#).
 47. The 1st Interested Party submitted that from the reading of Article 162(2)(a) and Section 12 of the ELRC Act, ELRC's jurisdiction is broad and include interpretation of the constitutional rights relating to employment and labour relations rights under Article 41 of [the Constitution](#). The Court is equally empowered to determine when the actions or omissions complained off is unconstitutional or not to extent that they relate to Article 162(2)(a) of [the Constitution](#). It cited the Supreme Court in Kenya Tea Growers Association & 2 others v The National Social Security Fund Board of Trustees & 13 others [2024] KESC 3 (KLR) wherein it found that the ELRC court is clothed with jurisdiction to hear and determine constitutionality of NSSF Act in matters of Employment and Labour Relations
 48. It is the 1st Interested Party's submission that the Election of the Petitioner under Article 178(1) of [the Constitution](#) creates a contract of employment. Thus, the court is clothed with jurisdiction to hear and determine the matter before it.
 49. On the second issue, the 1st Interested Party submitted that the Petitioner has met the conditions for grant of temporary injunction as set in *Giella Vs Cassman Brown and Co. LTD* [1973] EA as:

“First an Applicant must show prima facie case with a probability of success. Secondly, an interlocutory injunction will not normally be granted unless the Applicant may otherwise suffer irreparable injury which would not adequately be compensated by award of damages. Thirdly if the court is doubt it will decide an application on the balance of convenience.”
 50. It is the 1st Interested Party's submission that it would be fair and just that an order of injunction do issue barring the Respondents from de-gazetting the Petitioner pending the hearing of the suit.

2nd Interested Party's Submissions

51. The 2nd Interested Party submitted that the The Office of Speaker of the County Assembly is a constitutional office for which a special constitutional and statutory procedure for ascension and exit is provided under article 178(1) and (3) of [the Constitution](#) and section 11 of the [County Governments Act](#). The Speaker is therefore not, strictly speaking, an employee for purposes of the Employment and [Labour Relations Act](#), Cap. 8E.
52. The 2ND Interested Party's submitted that pursuant to article 260 of [the Constitution](#), the Speaker of a County Assembly is a 'State officer' by virtue of being an ex officio member of the County Assembly as provided in article 177(1)(d) of [the Constitution](#).
53. It is the Respondent's submission that Section 12(1) of the Employment and [Labour Relations Act](#) is express and unambiguous on the fact that the Court's jurisdiction with respect to employer-employee



- disputes is restricted to disputes relating to or arising out of employment between an employer and an employee. However, no employer-employee relationship exists as between the Applicant/Petitioner and the Respondents.
54. The 2nd Interested Party submitted that if an employer-employee relationship were to exist with respect to a Speaker of a County Assembly, this would be a relationship between the Speaker as ‘employee’ and the County Assembly as the ‘employer’. Under no circumstances can the Government Printer and the Attorney-General be considered as the employers of a Speaker of a County Assembly; these Respondents are neither involved in the election of the Speaker nor in the removal from office.
 55. The 2nd Interested Party submitted that the appropriate forum for addressing the questions raised in the Petition is the High Court of Kenya, and this Court therefore has no jurisdiction to entertain the matter.
 56. On the second issue, the 2nd Interested Party submitted that while the Applicant/Petitioner claims that he was elected as Speaker of the County Assembly of Isiolo, it is neither clear when this purported election happened nor is there any evidence whatsoever on record of such election having taken place. The Applicant has not provided any evidence whatsoever of an election for Speaker ever taking place in 2025.
 57. It is the 2nd Interested Party’s submission that if at all an election for a new Speaker of the County Assembly of Isiolo took place in June 2025, there would be a record of said election. Specifically, there would be at least: a notice declaring vacancy in the office of Speaker; nomination paper(s) filled and submitted by candidate(s) for election; register of nominated candidate(s); list of candidate; and Hansard record of the vote in the Assembly. Further, since all the Assembly proceedings are livestreamed and curated on the Assembly’s publicly-accessible YouTube and Facebook pages and on the Assembly’s website, it would have been possible to access the Hansard records of the proceedings for the purported election of the Applicant/Petitioner as Speaker.
 58. The 2nd Interested Party submitted that the Applicant makes contradictory claims that he was sworn in on 26th June 2025 after the publication of the Gazette Notice 8667, while the said Gazette Notice was actually published on 27th June 2025. Additionally, the then-Clerk of the Assembly, Salad Boru Guracha, in his Replying Affidavit claims that the Applicant was sworn into office on 03rd July 2025.
 59. The 2nd Interested Party submitted that it is inconceivable that a person assuming the public office of Speaker of the County Assembly would forget the exact date that they were sworn into office if ever they were sworn in. It is equally inconceivable that the Clerk of the Assembly who presided over the swearing in would forget the date that of the said ceremony. He contends that the Applicant and the then-Clerk of the Assembly are not being candid with the Court, and they cannot even get their story straight. The only logical inference that the Honourable Court can make from this is that the Applicant was never sworn in at any point as Speaker of the County Assembly of Isiolo
 60. It is the 2nd Interested Party’s submission that the substratum of the Application does not exist. It is evident that the Applicant does not and has never lawfully held the position of Speaker of the County Assembly of Isiolo or at least that there is no basis to believe that he has any legitimate claim to the position that he purports to hold. As such, the Application is unfounded; there is no inherent merit in the case to provide any basis for grant of the orders sought.
 61. The 2nd Interested Party submitted that there is no public interest in granting orders whose effect would be to remove from office a legitimately-elected and serving Speaker, even if on a temporary basis, and replace them with a stranger who has no legitimate/lawful claim whatsoever to said office. If granted, the orders will not serve to facilitate ordered functioning within the County Assembly; rather, they



will frustrate such orderly functioning by sanctioning the existence of two Speakers of the County Assembly, a position untenable in law and in fact. To grant the orders sought would not only cause unnecessary chaos in the leadership of the County Assembly and ground its operations, but would also frustrate the objects and principles of devolution as codified in articles 174 and 175 of *the Constitution*.

62. I have examined the averments and submissions of the parties herein. There are 2 issues for this court's determination.
1. Whether this court has jurisdiction to handle this petition.
 2. Whether the orders sought can be granted.

Issue No 1

63. A Preliminary objection was raised by the Hon. AG dated 17th July 2025 that this court has no jurisdiction to handle this petition. The AG submitted that by virtue of article 178 of the Constitution, the speaker of the County Assembly is an elected state officer and not an employee *per se* and consequently this court lack jurisdiction to entertain this petition.
64. The petitioner opposed the preliminary objection and cited *Nick Ndichu vs Clerk, Kiambu County Assembly* and another where the court (J Nderi) held that the law is not concerned with the manner of engagement on resumption but with the existence of such a contract. He submitted that this court has jurisdiction to handle this petition. 1st interested party also cited *Kenya Tea Growers Association and 2 Others vs NSSF Board of Trustees and 13 Others* where Supreme Court of Kenya held that the ELRC is clothed with jurisdiction to hear and determine constitutionality of NSSF and matters beyond an employee-employer relationship.
65. In the *Nick Ndichu* case, the court held that this court has jurisdiction in matters involving County Speakers since there is a relationship of employee/employer between the County Assembly and the Speaker. In other cases see *Ogori vs Nyamira County Assembly & 7 Others* the High court determined that it did not have jurisdiction to handle the issue of the speakers of County Assembly and referred the matter to the Employment And Labour Relations Court. The high court made a distinction between Speakers of the Assembly and members of the Assembly and determined that Speakers position are different and are akin to appointments which create an employer/employee relationship.
66. The principle in *Mukisa Biscuit* case is that the preliminary objection should raise pure principles of law, must be based on uncontested facts and must be capable if successful of disposing of the suit without further evidence.
67. The issue raised on whether the court has jurisdiction or not arises out of contested facts and in view of the findings of the "Supreme Court of Kenya and KECA, the issue of this court's jurisdiction in the preliminary objection raised go beyond the purview of *Mukisa Biscuit* case and the preliminary objection is thus dismissed.

Issue No 2

68. On whether to grant or not to grant conservatory orders, the orders to revise a gazette ment already in force will determine the entire petition at a preliminary stage. The petitioner/applicant was able on the face of it to demonstrate that he has an arguable case which led to the grant of the interim orders.
69. I find no reason to warrant reversal of the said orders at this stage which I confirm pending hearing and determination of the entire petition. Costs will be in the petition.



DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 29TH DAY OF OCTOBER 2025.

HELLEN WASILWA

JUDGE

