

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
CONSTITUTIONAL, HUMAN RIGHTS & JUDICIAL DIVISION
PETITION NO. E015 OF 2025

JACKTONE MADIALO.....PETITIONER

-VERSUS-

**CABINET SECRETARY, MINISTRY
OF FINANCE AND ECONOMIC PLANNING.....1ST ..RESPONDENT**

**SPEAKER OF THE
NATIONAL ASSEMBLY OF KENYA.....2ND RESPONDENT**

CLERK OF THE NATIONAL ASSEMBLY.....3RD RESPONDENT

**CHAIRPERSON, JUSTICE AND LEGAL
AFFAIRS COMMITTEE.....4TH RESPONDENT**

ATTORNEY GENERAL5TH RESPONDENT

DIRECTIONS

1. For reasons I gave in the ruling I delivered in this matter on 30 May 2025, I declined to grant the 3rd respondent’s application to have this matter transferred to Nairobi where it was alleged several petitions on the same subject had been filed.
2. Although this matter was slated for ruling on several preliminary objections against the petition, it has since come to my attention that over and above the petitions that have been filed in Nairobi, the Honourable Chief Justice has empanelled a three-judge bench in Milimani High Court Petition No. 234 of 2025 to hear and determine, among other things, the question of the Constitutionality of the Constitution of Kenya (Amendment) Bill, 2025.

3. The same question has been posed in this petition though narrowed to the question whether the Constitution of Kenya (Amendment) Bill (National Assembly Bill No. 4 of 2025 is null and void to the extent that it contravenes the Constitution of Kenya 2010 by failing to provide for the Ward Development Fund.
4. No doubt, in empanelling a bench of three judges to determine the question of the constitutionality of the Constitution of Kenya (Amendment Bill) 2025, the Honourable Chief Justice was exercising her mandatory and constitutional duty under article 165(4) of the Constitution which provides that “*any matter certified by the court as raising a substantial question of law under clause (3) (b) or (d) shall be heard by an uneven number of judges, being not less than three, assigned by the Chief Justice.*”
5. Out of deference to the decision by the Honourable Chief Justice, and to the bench the Chief Justice has empanelled to determine the question of the constitutionality of the Constitution of Kenya (Amendment Bill), 2025 I will withhold any further proceedings in this matter, including the determination of the preliminary objections questioning, *inter alia*, the jurisdiction of this Honourable Court to determine the petition and whether the petition is properly before court.
6. I come to this decision advisedly and, more so, to avert any danger of the same court reaching conflicting decisions over the primary question of

the Constitutionality of the Constitution of Kenya (Amendment Bill) 2025.

7. But in order to allow the petitioner ventilate any secondary issue that may not have been captured in the petition before the three judge-bench, and generally to have his day in court, I hereby transfer this file to Nairobi to be mentioned before the bench in Milimani High Court Petition No. 234 of 2025 for consideration of whether the petitioner's petition can be consolidated with Petition No. 234 of 2025 or for such other directions as the bench may deem appropriate to issue.

It is so ordered.

Signed, dated and delivered on 17 November 2025

Ngaah Jairus

JUDGE