



Deye v M’Impwi & 2 others; Simon & 2 others (Interested Parties) (Civil Case E306 of 2025) [2025] KEHC 17422 (KLR) (Civ) (21 November 2025) (Ruling)

Neutral citation: [2025] KEHC 17422 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CIVIL
CIVIL CASE E306 OF 2025
SN MUTUKU, J
NOVEMBER 21, 2025**

BETWEEN

REV ISAYA DEYE PLAINTIFF

AND

REV DR STEPHEN KANYARU M’IMPWI 1ST DEFENDANT

REV DR JOHN MAROMBA 2ND DEFENDANT

**THE METHODIST CHURCH IN KENYA TRUSTEES
REGISTERED 3RD DEFENDANT**

AND

JESSE MURUINGI SIMON INTERESTED PARTY

SOLOMON MURIKI JACKSON INTERESTED PARTY

ELISHA GILBERT KATANA INTERESTED PARTY

RULING

1. The Plaintiff Applicant has filed a Plaint dated 5th November 2025 against the Defendants Respondents in which he is accusing the Respondents of inciting members of the 3rd Defendant Respondent against him and threatening to unseat him from his position as the elected Presiding Bishop of Methodist Church in Kenya. He has accused the Defendants Respondents of unlawfully and unconstitutionally storming in his office at the Church Headquarters on Oloitoktok Road Nairobi and violently ejecting him from office in clear violation of the Church’s governance structure, standing orders and ecclesiastical norms.



2. Alongside the Plaint, the Plaintiff Applicant filed a Notice of Motion application (the Application) of the same date. Therein, the Plaintiff Applicant seeks various injunctive orders as clearly stated in that application. Of interest to this Court in that application at this stage is Prayer 4 of the Notice of Motion. The prayer is drafted as follows:

That pending hearing and determination of this Application, an order do issue restraining, restricting and prohibiting the Defendants Respondents from holding and proceeding with the Annual Conference of the Church set to be held between 24th November 2025 and 29th November 2025 or any other day until the rightful Standing Committee is reinstated in the Church in accordance with the Deed of the Church Order including those who were appointed during the 59th Conference held in August 2024.

3. The above prayer is the subject of this ruling.
4. Parties attended court, through their legal representatives, on 17th November 2025 and 19th November 2025. They made brief arguments either for or against, the granting of interim orders in line with prayer 4 of the Application.
5. On 17th November 2025, Mr. Michuki appearing for the Plaintiff Applicant told the court that this matter was urgent as demonstrated in Prayer No. 4. He sought Prayer 4 and 5 in the interim to stop a scheduled Annual Conference for the week starting Monday 24th to 29th November 2025.
6. Mr. Kimathi for the 1st Defendant Respondent told the court that he had filed Grounds of Opposition to the effect that the subject matter has been determined through a consent of the parties entered in HCCC No. E092 of 2025 before Honourable Lady Justice Mulwa.
7. Mr. Mutembei for the 2nd Defendant Respondent took the position of Mr. Kimathi that no interim order should be issued at this stage of the proceedings.
8. Mr. Narangyiwi for the 3rd Defendant Respondent vehemently opposed the grant of interim orders as sought under Prayer No. 4. He told the court that there is no urgency in the matter as the events complained of took place on 24th July 2024. He told the court that this matter is res judicata as the same issues have been canvassed in HCCC E092 of 2025. Counsel told the court that he has filed a Notice of Preliminary Objection in this matter.
9. Given that parties had not filed responses to the Application, this court directed that this be done and that parties to file skeleton submissions by close of business on 19th November 2025 in respect of Prayer No. 4 to allow this court to determine that issue as well as issue comprehensive directions on the hearing of the pending Application.

Plaintiff's Submissions

10. In his submissions filed on 19th November 2025, the Plaintiff Applicant gave the historical background of his case and submitted that the only body with powers under the Deed of the Church Order to reconstitute a Standing Committee is the Annual Conference; that since the 59th Annual Conference held between 27th to 31st August 2024, there has been no other Annual Conference; that the term of a new Standing Committee would only end once a new Standing Committee has been reconstituted at an Annual Conference and that an Annual Conference which excludes the rightfully appointed members of the Standing Committee, which is an integral part of the Annual Conference, is an illegality.



11. The Plaintiff Applicant submitted that this is a court of equity and it cannot stand aside while being aware of violations of rights of a party. He relied on *Ndegwa & 3 others v Republic & another (consolidated)* [2023] KECA 211 (KLR) and *Ian Gakoi Muna & 3 others v Republic & another* [2020] KECA 788 (KLR) to support his submissions.
12. He also relied on *Giella v Cassman Brown* (1973) EA 358 and *Mrao Ltd v First American Bank of Kenya Ltd & 2 others* [2003] eKLR to support his submissions that he has met the threshold for grant of interim orders stipulated in the *Giella v Cassman Brown* case and has established a prima facie case as defined in *Mrao Ltd* case to warrant a grant of interim orders as prayed under Prayer No. 4 of the Application. He submitted that he has demonstrated a prima facie case with a probability by showing that the current Standing Committee was illegally reconstituted and the lawful members of the Standing Committee have been excluded from the convened Annual Conference.
13. He submitted that he has demonstrated irreparable damage as pleaded under paragraphs 8 and 10 of his Further Affidavit and that an award of damages is not an adequate remedy. He submitted that the balance of convenience tilts in favour of granting the interim orders as sought under Prayer No. 4 and that Article 12 (1) of the Order of the Church Deed allows delay of an Annual Conference up to two years.
14. The Plaintiff Applicant urged this court to grant interim orders pending the determination of his application dated 5th November 2025.

1st Defendant's submissions

15. The 1st Defendant filed submissions dated 19th November 2025. He has raised and submitted on the following issues:
 - a. Whether the Standing Committee was properly constituted? On this issue, it was submitted that the current Standing Committee was constituted pursuant to orders of the Court issued on 8th April 2025 in High Court Civil Case No. E092 of 2025 and that the 1st Defendant is seeking to comply with those orders and that the Standing Committee is properly constituted.
 - b. Whether the Annual Conference scheduled for 24th to 29th November 2025 should be halted through interim orders? It was submitted that to halt the Annual Conference would be an extreme and disruptive measure that would paralyze the operations of the 1st Defendant. It was submitted that the stringent conditions set out in *Giella v Cassman Brown* case must be strictly satisfied, which the Applicant has not done; that the Applicant has not demonstrated that he has a prima facie case with a probability of success; that he stands to suffer irreparable loss that cannot be adequately compensated through an award of damages and that the balance of convenience favours allowing the Annual Conference to proceed as scheduled.

2nd Defendant's submissions

16. The 2nd Defendant's submissions are dated 19th November 2025. He has submitted that interim orders under Order 40 of the Civil Procedure Rules are preventive in nature and are not intended to restore a party to an office already filled; that there is a substantive Presiding Bishop in office which cannot be undone through a temporary injunction. To support that point, the 1st Defendant relied on *Ngugi v Mwihaki & another* [2025] KECA 11865 (KLR) where the Court held that "The purpose of a temporary injunction is to preserve the status quo until a final decision is made."



17. It was submitted that the pleadings of the Applicant disclose matters that are governed by employment and ecclesiastical administrative procedure and not the ordinary civil jurisdiction and therefore this suit, as filed, is misconceived and the injunctive relief sought cannot issue in the manner framed.
18. It was submitted that the Applicant was removed from office on 24th July 2025; that he has approached this court more than 5 months later which delay is fatal for equity does not aid the indolent; that the Annual Conference sought to be stopped has already been fully organized and resources deployed towards the preparations and that granting the orders sought would occasion monumental loss to the 1st Defendant.
19. It was submitted that the Applicant has acknowledged that the 1st Defendant was duly elected as Acting Presiding Bishop and that he has assumed office; that the allegations made in the Applicant's Further Affidavit are contested and require oral evidence and cross-examination and cannot be determined at the interlocutory stage and that it would be improper and procedurally dangerous for this Court to grant the drastic orders sought when other courts are already seized of similar issues as this would risk inconsistency or conflicting decisions.
20. It was submitted that the Applicant has not demonstrated a prima facie case, irreparable harm or that the balance of convenience lies in his favour and that Prayer No. 4 of the Application lacks merit and should be dismissed with costs.

The 3rd Defendant's submissions

21. The 3rd Respondent's submissions are dated 19th November 2025. He has submitted that the orders sought contradict existing orders of the High Court in HCCC No. E092 of 2025 issued on 7th April 2025 in which the court (Mulwa, J) granted Prayer 2 of that application which was complied with by constituting the current Standing Committee; that this means that the 3rd Defendant now has a proper, valid and lawful Standing Committee capable of overseeing the Annual Conference.
22. It was submitted that on 22nd October 2025, the Court (Mulwa, J) confirmed that the Standing Committee had been properly reconstituted and expressly permitted the 3rd Defendant to proceed with the preparations of the Annual Conference and therefore the convening of the Annual Conference has been sanctioned by the Court.
23. The 3rd Defendant urged this Court to avoid issuing orders that risk jurisdictional conflict or contradictory directives and that the Court cannot issue interim orders on a matter already determined or actively pending in another forum. The 3rd Defendant referred this Court to Sections 6 and 7 of the *akn ke act 1924 3 Civil Procedure Act* on that point.
24. It was submitted that the second limb of Prayer 4 seeks a final remedy that cannot be granted at an interlocutory stage; that the prayer to reinstate the Standing Committee is a substantive and final prayer that requires full hearing and determination on evidence and granting that prayer at this stage of the trial would effectively predetermine the entire suit.
25. It was submitted that the Applicant has not met the threshold for interim relief as set out in *Giella v Cassman Brown*, that is, he has not established a prima facie case, irreparable harm and that balance of convenience tilts in his favour; that the application is tainted by material non-disclosure and bad faith in that the Applicant has left the 3rd Defendant and joined another denomination; that he has reached mandatory retirement age; that he was removed through ecclesiastical procedures and that HCCC No. E092 of 2025 relate to the same issues.



26. It was submitted public interest in this matter overwhelmingly favour the Defendants for the reasons that the Annual Conference involves delegates from multiple countries and is essential for governance, administration and sustainability of the Church and stopping it would jeopardize public, ecclesiastical and organizational interests of the 3rd Defendant and that the reliefs sought are vague and contrary to the Church's governing instruments.

Interested Parties' submissions

27. These are dated 19th November 2025. The Interested Parties are supporting the Applicant. They have submitted that this Court has inherent jurisdiction to issue interim orders to preserve the subject matter and maintain status quo. They cited *Giella v Cassman Brown* case and submitted that the Applicant has established a prima facie case by demonstrating that he was unlawfully and violently removed from office on 24th July 2025 in violation of Article 25(10) of the Deed of the Church Order; that the Applicant was validly elected in July 2023 for a five-year term to end in 2028; that the installation of the 1st Defendant as Presiding Bishop is a nullity as no vacancy was existing and that only the Annual Conference is constitutionally empowered under Article 25 of the Deed of the Church Order to elect a Presiding Bishop and that the Standing Committee has been unlawfully reconstituted in contravention of Article 10 (e) of the Deed of the Church Order.

Analysis and Determination

28. This matter was filed in Kiambu High Court. It was transferred to this Court for determination for reasons relating to territorial jurisdiction. It was placed for directions on 17th November 2025 during which date, the court was informed that there are other matters involving the parties herein in other matters filed both in this Division (Civil) and at Meru High Court.
29. I am aware that in this Civil Division at Milimani, there is HCCC No. E092 of 2015 in which the Applicant in the application under determination, and the 3rd Defendant in this instant suit were sued as the 1st Defendant and 2nd Defendant respectively. That case is still active. It has a date before Hon. Lady Justice Mulwa on 26th January 2026.
30. There is also HCCC No. E187 of 2025. It was filed by Justus Laibuni Mwenda against 12 Defendants. The Applicant is not a party to that suit. There is Meru Constitutional Petition No. 27 of 2025 which lists the Applicant as an Interested Party in that Petition. The Petition seeks declaratory reliefs relating to the removal of the Applicant.
31. I have considered Prayer No. 4 of the application under determination and the grounds advanced in support of that prayer. That prayer is reproduced here below for emphasis:

That pending hearing and determination of this Application, an order do issue restraining, restricting and prohibiting the Defendants Respondents from holding and proceeding with the Annual Conference of the Church set to be held between 24th November 2025 and 29th November 2025 or any other day until the rightful Standing Committee is reinstated in the Church in accordance with the Deed of the Church Order including those who were appointed during the 59th Conference held in August 2024.

32. It evident that the Prayer seeks to restrain the Annual Conference scheduled for 24th to 29th November 2025 from proceeding, either on those dates or on any other day until the rightful Standing Committee is reinstated in the Church in accordance with the Deed of the Church Order including those who were appointed during the 59th Conference held in August 2024. The Applicant and the Interested Parties



have supported the granting of the interim orders as sought under that prayer while the Defendants Respondents have argued against granting that prayer.

33. Granting of interim injunctions is governed by Order 40 of the Civil Procedure Rules (CPR). Order 40 Rule 1 provides that:

Where in any suit it is proved by affidavit or otherwise—

- (a) that any property in dispute in a suit is in danger of being wasted, damaged, or alienated by any party to the suit, or wrongfully sold in execution of a decree; or
- (b) that the defendant threatens or intends to remove or dispose of his property in circumstances affording reasonable probability that the plaintiff will or may be obstructed or delayed in the execution of any decree that may be passed against the defendant in the suit,

the court may by order grant a temporary injunction to restrain such act, or make such other order for the purpose of staying and preventing the wasting, damaging, alienation, sale, removal, or disposition of the property as the court thinks fit until the disposal of the suit or until further orders.

34. The decision in *Giella v Cassman Brown* (1973) EA 358 is clear that an applicant seeking an interim injunction must demonstrate to the satisfaction of the that there is (a) show a prima facie case with a probability of success; (b) an injunction will not normally be granted unless the applicant might otherwise suffer irreparable injury and, (c) when the court in doubt, it will decide the application on the balance of convenience. This is the test the Applicant must pass in this matter to persuade this court to grant the interim orders he is seeking.

35. The Applicant has submitted that he has demonstrated a prima facie case with a probability of success. He is anchoring that position on the alleged illegal reconstitution of the current Standing Committee of the 3rd Defendant Respondent, and the exclusion of the lawful Members of the Standing Committee including himself, as a basis to argue in support of the principle of prima facie case. He is supported in that argument by the Interested Parties.

36. To counter that submission, the Defendants Respondents have taken the stand that the reconstitution of the current Standing Committee was sanctioned by the Court through the orders of Mulwa J issued on 22nd October 2025 in HCCC No. E092 of 2025. These orders are based on a Consent said to have been signed by all the parties. I have read the court record and the court proceedings of 22nd October 2025 in HCCC No. E092 of 2025. The record of the proceedings of that day show that Hon. Lady Justice Mulwa recorded as follows:

“This suit is hereby withdrawn in terms of the Consent dated 21 10 2025 between the Plaintiffs and the 2nd Defendant. The 1st Defendant’s costs to be agreed and or taxed. Consent duly adopted as Court order. Matter now closed.”

37. To put the referenced Consent Order into perspective, it is prudent to reproduce the Order as drafted and filed. The Order is dated 21st October 2025. It is signed by M s Kaburu Miriti & Co. Advocates for the Plaintiff in HCCC No. E092 of 2025 and Charles Kimathi & Co. Advocates for the 2nd Defendant in the same case. The contents of the Consent Order are as follows:

“By Consent Of The Plaintiffs And The 2Nd Defendant, it is hereby agreed and ordered as follows:



1. That the 2nd Defendant, having complied with the Orders of this Honourable Court issued on the 7th day of April, 2025, by duly reconstituting the Standing Committee in accordance with the said Order, be and is hereby permitted to convene and proceed with the Committee Meeting and the Annual Conference.
 2. That the 2nd Defendant shall at all times ensure that the members of the Standing Committee that are elected by the Synod are elected by their respective Synods in strict conformity with the Standing Orders of 1996 or any other applicable standing orders, *akn ke act 2010 constitution the Constitution*, and any other governing statutes of the 2nd Defendant in force.
 3. That it is hereby further ordered as follows:
 - a. The term of office of Rev. Isaya Deye and the Expanded Conference Standing Committee of the 2nd Defendant expired, and both were replaced on the 24th July 2025.
 - b. All activities related to *akn ke act 2010 constitution the Constitution* Review Process (DCO) are hereby suspended forthwith, pending the undertaking of proper legal procedures, consultations, and approvals as required under the governing instruments of the 2nd Defendant and the law.
 4. That this Consent shall be filed and adopted as an Order of this Honourable Court, and shall take effect forthwith.
38. The 2nd Defendant referenced in that Consent Order is the Methodist Church in Kenya Trustees Registered which is the 3rd Defendant Respondent in this matter.
39. I don't intent to comment on this Consent Order for the reasons that it is being challenged in HCCC No. E092 of 2025. Suffice is to state that the Defendants Respondents have relied on this Consent Order to submit that the reconstitution of the current Standing Committee was in compliance with the court orders. To my mind, therefore, a party acting in compliance with an existing court order, cannot be said to be acting illegally. That order is in force, and until it is overturned, set aside, varied or reviewed, this court has no reason to doubt its veracity or to interfere with it. Based on that reasoning, it is my considered view that the Applicant's assertion that he has established a prima facie case with a probability of success falters. That argument can only become relevant after the existing consent order has been vacated or in any other manner ceases to apply.
40. On the principle that the Applicant is likely to suffer irreparable loss that cannot be compensated by an award in damages, I have read the Further Affidavit by the Applicant, specifically paragraphs 8 and 10. It is deposed in those paragraphs, inter alia, that the Respondents proceeding with the Annual Conference and electing another Presiding Bishop while the Applicant's term has not expired would perpetuate the illegality and that he stands to suffer irreparable damage and reputation.
41. On this issue I reiterate that I have considered that there is an existing court order (Consent) allowing the convening of the Standing Committee and Annual Conference. It is on the strength of that order that the Defendants Respondents are proceeding with the activities of the 3rd Defendant Respondent



42. Suffice is to state that, without delving into more details of this application given that the Applicant is only seeking grant of Prayer 4 in the interim, I have said enough to show that the balance of convenience tilts in favour of not granting interim orders in Prayer No. 4 for the reasons stated in this ruling.
43. . The upshot of this determination is that the Applicant has not placed sufficient material before this Court to persuade me to grant the interim orders under Prayer No. 4 of the Application under determination. Consequently, this court declines to grant Prayer 4 in the interim. Let the parties prepare for the full hearing of the Application dated 5th November 2025 for determination of all the issues arising from that application.
44. It is so ordered.

DATED, SIGNED AND DELIVERED THIS 21ST DAY OF NOVEMBER 2025.

S.N. MUTUKU

JUDGE

In the presence of:

Mr. Michuki for the Plaintiff Applicant

Mr. Kimathi for the 1st Defendant Respondent

Mr. Mutembei for the 2nd Defendant Respondent

Mr. Narangwi for the 3rd Defendant Respondent

Mr. Sang for the Interested Parties

