

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT ISIOLO
CONSTITUTIONAL PETITION NO. E009/2025.

IN THE MATTER OF:

**GAZETTE NOTICE NO.11384 ON THE TEMPORARY
RELOCATION OF ISIOLO COUNTY ASSEMBLY
SITTINGS TO OLDONYIRO COUNTY ASSEMBLY HALL**

AND

**ARTICLES
1,2,3,10,22,23,27,28,40,47,174,185,186,187,189,2
01,258 AND 259 OF THE CONSTITUTION**

AND

**THE RIGHT OF THE CITIZENS OF ISIOLO TO FAIR
ADMINISTRATIVE ACTION**

AND

**THE ALLEGED THREAT TO UNLAWFUL REVOCATION
OF GAZETTED NOTICE NO.11384 OF 2025,
RELATIVING TO THE RELOCATION OF THE ISIOLO
GOVERNMENT OFFICES**

BETWEEN

**HASSAN
BONAYA.....PETITIONER/APPLICA
NT**

VS

**THE CLERK, COUNTY ASSEMBLY OF ISIOLO.....1ST
RESPONDENT**

**ATTORNEY
GENERAL.....2ND
RESPONDENT**

**THE GOVERNMENT PRINTER.....3RD
REPSONDENT**

AND

**MOHAMMED ROBA KOTO & 18
OTHERS.....PROPOSED INTERESTED
PARTIES**

RULING.

1. What is coming up for determination is the Amended Notice of Motion dated 17th September 2025, brought by Mohammed Roba Koto, the 1st proposed interested party. The Applicant and six others are praying that they be joined in the suit as interested parties.
2. Save for the proposed 1st interested party, there was no objection to the six others being joined to the suit, and their prayer was therefore allowed by consent of the parties. What is left for this court to determine therefore is the admission of the 1st proposed interested party Only(The Applicant).

The Applicant's case

3. The Applicant states that he is the speaker of the County Assembly of Isiolo (The County Assembly); that he will suffer substantial loss damage if orders sought are not granted. On the substance of the main Application, he states that the relocation of the county Assembly offices was in blatant contravention of the Assembly's standing orders as the relocation

was done without the approval of the Assembly. He argues that the main reason for the relocation is to disrupt the sittings of the Assembly.

4. In his submissions he submits that as the speaker of the county Assembly and the chairman of the County public service Board, he ought to have had a say on where the location of the seat of the speaker of the county Assembly should be; and that consequently he has a direct interest on the suit. He further submits that there is no other person who has come up in this suit to claim that he is the speaker of the Assembly. He states that he is apprehensive of his safety if he were to conduct his duties of the speaker at Oldonyiro Assembly Hall.

The petitioner's case

5. The petitioner's case is that the Applicant is not the speaker of the county Assembly and thus does not meet the threshold of an "*interested party*".; That the question of who is the legitimate speaker of the county Assembly is the subject of litigation in **Nairobi Employment and Labour Relations court(ELRC) petition NO. E139/2025**; that the Applicant herein is an interested party in the ELRC petition, and which petition challenges the Election of Abdullahi Chaldesa Banticha as the current speaker of the county Assembly. It is argued that in the circumstances, the Applicant has no direct interest. It is finally stated that in any event, the determination of who is the legitimate speaker is currently *sub judice*, due to on- going ELRC Petition.

1st Respondent's case

6. The 1st respondent states that based on the publication of Gazette Notice NO. 8867 of 2025 and dated 26/6/25, the Applicant is no longer the speaker of the Assembly; That the content of the said Notice has been preserved by an order of the court in **Nairobi ELRC petition NO.E139/25**. That consequently the Applicant is not the speaker of the county Assembly, and as such has no approximate legal interest in the subject matter before court.
7. Is further submitted that the Applicant has not demonstrated any personal or public interest distinct from that of the general public; that his interest is remote and political. It is submitted that the clerk of the Assembly and Members of County Assembly (MCAs) will offer sufficient assistance to the court in arriving at conclusive and just determination. It is finally submitted that in any event, there will be no prejudice, as the deputy speaker can preside over the Assembly in place of the speaker.

7th to 20th interested parties' case.

8. Counsel for the proposed 7th to the 20th interested parties adopted the submissions of the petitioner and the 1st Respondent.

The Applicant's response

9. On the ELRC petition NO. E139/125 the Applicant submits that the illegal gazetting of the new speaker was only maintained pending the hearing of the application interparties, and that, in any event, the illegal gazetting had already been degazetted, by the time the interim orders were issued by the ELRC court. It is further stated that the first respondent is not a clerk of the county

Assembly, and as such cannot speak for the Assembly.

Determination

10. A brief background of this matter is necessary: On 11th August 2025, the clerk of the county Assembly, one Salad Guracha published a Gazzette Notice No. 11384 relocating the county Assembly offices from the Isiolo county Assembly chambers to Oldonyiro county Assembly hall based at oldonyiro town.
11. I have considered the respective parties pleadings and submissions. The only issue for determination is whether the Applicant has met the threshold of an *interested party*.
12. The supreme court ***in Muruatetu & another v Republic; Kenya National Commission on Human Rights & 2 others (Interested Parties); Death Penalty Project (Intended Amicus Curiae) [2016] KESC 12 (KLR)*** had this to say about the nature and the conditions which the Applicant must meet: *“Enjoinment is not as of right, but is at the discretion of the Court; hence, sufficient grounds must be laid before the Court, on the basis of the following elements: The personal interest or stake that the party has in the matter must be set out in the application. The interest must be clearly identifiable and must be proximate enough, to stand apart from anything that is merely peripheral. The prejudice to be suffered by the intended interested party in case of non-joinder, must also be demonstrated to the satisfaction of the Court. It must also be clearly outlined and not something*

remote. Lastly, a party must, in its application, set out the case and/or submissions it intends to make before the Court, and demonstrate the relevance of those submissions. It should also demonstrate that these submissions are not merely a replication of what the other parties will be making before the Court.

13. The Applicant's case is that he is the speaker of the county assembly, and chairman of the Public Service Board; that in the dual capacity, he ought to have had a say on the relocation of the County assembly. He further stated he could not conduct the duties of the assembly in the new location due to apprehension of his safety. Consequently, his contribution in the matter will help the court in the just conclusion of the issues before it.
14. By law, the speaker presides over the County Assembly. He also doubles up as the chairman of the County Assembly service Board. To that extent, the decision, to move the seat of the county Assembly, as well as the logistics appertaining such a move must involve the speaker. He would, at least, be possessed of the information of whether the gazettment of the new premises and / or de-gazettment, followed due procedure.
15. The respondents argument in this case however is that the position of Applicant as a speaker of the county Assembly of Isiolo is under contest. All the parties are in agreement on that the issue of who is the legitimate speaker of Isiolo county Assembly is pending determination before the Nairobi ELRC vide **petition No. E139/2025**. whereas this court is careful not to venture into the jurisdiction of ELRC, the determination of the said

court, if any has been arrived at, is relevant to the issue before this court. Thus, the court will refer to the said petition to the extent relevant to the issue before it.

16. The first respondent has attached gazette notice NO 8667(SGB-2-2). The Notice states that one Abdullahi Jaldesa Panticha had been elected as the speaker of the County Assembly effective 26th June 2025. The first respondent submits that pursuant to an order in the cited petition, the statusquo as per the said Notice was maintained.
17. I have read the order dated 17th of July, 2025 by Justice Wasilwa attached to the 1st Respondent's Affidavit. The relevant part of the said order simply states: "*The interim orders are extended*". However, the nature of the interim order extended is not stated. In the circumstances, there is no evidence therefore indicating that the validity of Gazzette Notice No. 8667 is on the basis of Justice Wasilwa's order.
18. The Applicant has argued that Gazette Notice No. 8667 was degazetted by another Notice which was published subsequently. This submission has however been made without any documentary evidence to back it up. The subsequent Notice referred to has not been submitted in evidence.
19. Thus, what is available before court is only Gazzette Notice No. 8667 and according to that Notice Abdullahi Jaldesa Banticha was the speaker of the county Assembly as from 26th June 2025. There was no evidence to show that the position had changed when the relocation of the Assembly was gazzetted on 25th of August 2025. In other words , on the basis of the Gazzette Notice No. 8667 it is

evident that the speaker's seat at the time of the relocation of the county assembly was legally occupied by **Abdullahi Jaldesa Banticha** and not the applicant herein. There was also no evidence that the position has changed even at the hearing of the present Application

20. Consequently, having failed to demonstrate that at the time of the relocation of the County Assembly offices or at the time of the hearing of this application, he was the legal and legitimate speaker of the county Assembly, there is no identifiable interest in this suit which the Applicant can be said to articulate or protect. Further, there is no prejudice he is likely to suffer which cannot be addressed by his six co-Applicants, who are elected members of county Assembly.
21. In the end, I am not satisfied that the Applicant has demonstrated any identifiable interest in this petition to warrant his admission as an interested party. His plea is hereby dismissed.
22. The 2nd to the 7th Applicants has been admitted to the suit by the consent of the parties. Consequently, Kamila Warsame, Abubakar Abdi Kodana, Dekah Bonja, Alima Gole Abgudo, Mejja Golicha and Nura Mohamed Huka are hereby designated as the 1st to the 6th interested parties.
23. The other 12 proposed interested parties had been enjoined in the suit by consent of the parties in the Notice of Motion dated 21st September, 2025. Therefore, Salesio Kiambo, Peter Losu, Nicholas Lorot, Amina Omar Enow, Abdi Rashid Diba, Fatuma Abdullahi Abdi, Francis Letimalo, David Lemantile, Rehema Abdikadir, David Waithaka, Fozia Jibril and

Abdinoor Dima Jilo are hereby designated as the 7th to the 18th interested parties respectively.
24. Each party to meet their own costs.

Dated, Signed and delivered virtually, at Nairobi, this 11th day of December 2025.

S. Chirchir

Judge

In the presence of:

Kashane Gollo-Court Assistant

Mr Echesa for the petitioner

Mr Wandera for Mr Ngwelefor the 1st respondent

Mr Tali Tali for the 7th to 18th proposed interested parties.

ORIGINAL