



**In re Johana Karu Ndung'u (Civil Miscellaneous E002 of 2026)
[2026] KEHC 1537 (KLR) (Civ) (13 February 2026) (Ruling)**

Neutral citation: [2026] KEHC 1537 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYANDARUA
CIVIL
CIVIL MISCELLANEOUS E002 OF 2026
KW KIARIE, J
FEBRUARY 13, 2026**

**IN THE MATTER OF
JOHANA KARU NDUNG'U APPLICANT**

RULING

1. Johana Karu Ndung'u, the applicant herein, moved the court through a Chamber Summons dated the 9th day of February 2026. It was brought under Sections 3A of the *Civil Procedure Act*, Order 40 of the Civil Procedure Rules, and Articles X(D) and XVIII(E) of the Kenya National Union of Teachers Constitution Rules and Regulations. The applicant is seeking the following orders:
 - a. This matter be certified as urgent and be heard on priority basis. [spent]
 - b. This honourable court be pleased to issues an anticipatory/quia timet injunction protecting the ex-parte applicant's candidature for the elective position of Executive Secretary for the Kenya National Union of Teachers, Nyandarua North Branch from being interfered with withheld, diverted, disqualified and/or incapacitated in any manner whatsoever, by any officer, staff, employee of the Union, Labour Office and/or any person(s) acting under any other authority whatsoever, prior to the nominations on Friday the 13th February, 2026 and the subsequent election on Saturday the 14th February, 2026.
 - c. The Officer Commanding Stations, Olkalou police station, be ordered to ensure compliance with the orders of the honourable court and to arrest any person acting in contempt of the orders of the honourable Court forthwith.
 - d. That in the event of default in honouring the above orders, a Conservatory Order do issue preserving the ex parte applicant's current position as the Executive Secretary for the Kenya National Union of Teachers, Nyandarua North Branch until the process of the nominations is done fairly and in transparency.



- e. There be no orders as to costs.
2. The application was premised on the following grounds:
 - a. The ex parte applicant is a fully paid-up member of the Kenya National Teachers' Union.
 - b. The ex parte applicant is the current holder of the office of the executive secretary of the Kenya National Union of Teachers, Nyandarua North Branch, having been elected into office in the year 2021.

The ex parte applicant is an eligible contestant/candidate in the upcoming nominations to be held on Friday the 13th February, 2026 and subsequently election Saturday on 14th February 2026, for the same elective position, having met the threshold contemplated and/or provided for under Articles X (D) and XVIII (E) of the Kenya National Union of Teachers Constitution Rules and Regulations.
 3. This application is quite interesting. Although it is clear that the applicant requests orders against specific entities, none of those entities has been named as a party to the application. This is in breach of the cardinal principle of natural justice (*audi alteram partem*) that states that a party should not be condemned unheard. The Court of Appeal in *Musila v Thengi & 2 others (Civil Appeal 607 of 2019) [2025] KECA 750 (KLR)* stated at paragraph 20:

A cardinal rule of natural justice is that no party should be condemned unheard. All parties appearing before a court of law or a quasi-judicial process ought to be allowed to present their case and be heard. It is also commonplace that timelines are put in place to ensure that this right is neither abused nor used to the detriment of the other party.
 4. A *Quia timet* injunction aims to prevent future, anticipated, or threatened breaches of a party's rights. The applicant must show a strong case of probability that the breach will happen or that there is a real and imminent risk, and that without the injunction, the resulting damage would be significant and not easily compensated by money.
 5. In order for the court to grant the orders, substantial evidence must show that the threat is real and not merely speculative.
 6. Even if the parties intended to be affected by the orders had been named, it remains uncertain whether this court would have been convinced to issue those orders.
 7. The application is dismissed.

DELIVERED AND SIGNED AT NYANDARUA, THIS 13TH DAY OF FEBRUARY 2026

KIARIE WAWERU KIARIE

JUDGE

