

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAROK**  
**HCCHRPET NO. E006 OF 2025**  
**(CORAM: CHARLES KARIUKI – J)**

**IN THE MATTER OF THE CONTRAVENTION OF THE CONSTITUTION  
OF KENYA 2010 UNDER ARTICLES 1,2. 3. 10. 21. 22, 47, 50, 174, 175, 176, 195 OF  
THE CONSTITUTION OF KENYA, 2010**

**BETWEEN**

**WILSON MATEYA MURGUYA.....PETITIONER/APPLICANT**

**-VERSUS-**

**THE SPEAKER, NAROK COUNTY ASSEMBLY.....1<sup>ST</sup>  
RESPONDENT**

**NAROK COUNTY ASSEMBLY.....2<sup>ND</sup> RESPONDENT**

**HON. LEMISO KIMITI.....3<sup>RD</sup> RESPONDENT**

**HON. SYNTEI NCHOE.....4<sup>TH</sup>  
RESPONDENT**

**HON. LINDA NTUTU.....5<sup>TH</sup> RESPONDENT**

**HON. ELIJAH KUTINGALA.....6<sup>TH</sup>  
RESPONDENT**

**HON. DANIEL KILERAI.....7<sup>TH</sup> RESPONDENT**

**HON. SALAASH KISOTU.....8<sup>TH</sup> RESPONDENT**

**HON. SENEYIO TOROME.....9<sup>TH</sup> RESPONDENT**

**HON. MARIA KISERIAN.....10<sup>TH</sup>  
RESPONDENT**

**HON. NKALUENA KUYIONI.....11<sup>TH</sup> RESPONDENT**

**HON. IMMACULATE PISOI.....12<sup>TH</sup>  
RESPONDENT**

**HON. ISAAC DAPASH.....13<sup>TH</sup> RESPONDENT**

**RULING**

1. The petitioner lodged petition along with a an application dated 14.5.2025 which was amended on 20.5.2025 seeking conservatory orders in terms of prayers No. 2 to 7 supported by the grounds on the face of the motion and an affidavit of Wilson Mateya Murguyia sworn on 14.5.2025. Interim orders were issued as court was moved under a certificate of urgency which court certified based on the content of

the documents placed before it ex parte. Subsequently, the Proposed interested party lodged motion dated 29.5.25 seeking prayers to enjoin interested party, stay, review and /or set aside the interim orders issued in favour of the petitioner inter alia.

2. The application was anchored on the grounds on the face of the motion and the supporting affidavit of Hon Lemiso Kimiti sworn on the 29.5.2026. Further the court has also noted that the speaker of the county assembly of Narok swore an affidavit on 10.7.2025 clarifying on the to the process of removal of the minority leader and on whether the threshold was met and the organ responsible in initiation of coalition or political parties removal of leadership in the Assembly and communication to the Assembly of the decision of the party or the coalition and especially in the instant case and as far as the rules and standing orders of the assembly prescribe.
3. On 27.6.2025 by way of compromise, the parties via their advocates agreed prayer 2 of the third interested party be allowed thus enjoining Azimio La Umoja Coalition Party as interested party.
4. This gave way for the canvassing of the petitioner's motion for conservatory orders, and the court issued directions accordingly. The petitioners side filed their submissions and a supplementary affidavit sworn on 12.9.2025 while Hon Lemiso Kimiti hand filed replying affidavit for Azimio side sworn on 29.5.2025.
5. The parties particularly herein the Interested party in their sub missions have raised jurisdictional issues which have to be addressed before court can delve into the merit of the matter. These are, whether this Honourable Court has jurisdiction to entertain disputes arising from the internal affairs of a political party and the County Assembly.
6. **In *Mukisa Biscuit Manufacturing Co. v West End Distributors [1969] EA 696.***  
The court held that jurisdiction is a pure point of law and a proper subject of a preliminary objection.

7. The case of *Owner of Motor Vessel Lillian S. Vs. Caltex Oil (1989) KLR*, held that where the court lacks jurisdiction, it cannot take one step in the proceedings. The Interested party canvassed in submissions the jurisdictional issue, but I did not come across Petitioners side rejoinder on same element which is fundamental and goes to the whole matter.
8. Article 165 (5) (b) of the Constitution ousts the jurisdiction of the High Court over matters reserved for other constitutional or statutory bodies.
9. The question of leadership within the County Assembly and Political Party Positions falls squarely within the jurisdiction of the Political Parties Disputes Tribunal (PPDT) under Section 40 (1) (b) of the Political Parties Act, 2011, and within the internal Standing Orders of the County Assembly. In the case of *Speaker of the National Assembly V Karume (19921 KLR 21)*, the Court of Appeal held that:

*"Where there is a clear procedure prescribed by the Constitution or an Act of Parliament for the redress of any particular grievance, that procedure should be strictly followed."*

10. Similarly, in the case of *Moses Mwicigi & 14 Others V IEBC & 5 Others [20161 eKLR]*, the Supreme Court reaffirmed that political parties and assembly leadership matters should first be dealt with through internal mechanisms before invoking the court's jurisdiction. Accordingly, this Court lacks jurisdiction at this stage, as the Petitioner has not exhausted internal and statutory mechanisms available under the Political Parties Act and the Narok County Assembly Standing Orders. Accordingly, this Honourable Court lacks jurisdiction at this stage, as the Petitioner has not exhausted internal and statutory mechanisms available under the Political Parties Act and the Narok County Assembly Standing Orders.
11. **ANALYSIS AND DETERMINATION**
12. Kenya's jurisprudence on the settlement of disputes within or between political parties and coalitions is founded on a hybrid system of mandatory internal dispute resolution, specialized quasi-judicial oversight, and constitutional court oversight, primarily aimed at ensuring democracy and adherence to the rule of law within

parties; The Key aspects of Kenya's jurisprudence on this subject include: Mandatory Internal Dispute Resolution (IDRM).

13. Doctrine of Exhaustion: Kenya law (Section 40 of the Political Parties Act, 2011) mandates that all internal disputes must first be resolved through a party's internal dispute resolution mechanisms before escalating to the Tribunal.
14. Jurisdiction Trigger: The PPDT's jurisdiction "*crystallizes*" only after the party member has demonstrated that they attempted to exhaust these internal mechanisms.
15. **Exceptions:** Courts have held that if a party fails or refuses to activate its internal mechanism, the aggrieved party may proceed directly to the Tribunal, as a party cannot frustrate the process by inaction.
16. In the case of **SPEAKER OF THE NATIONAL ASSEMBLY V KARUME (19921 KLR 21**, the Court of Appeal held that: "***Where there is a clear procedure prescribed by the Constitution or an Act of Parliament for the redress of any particular grievance, that procedure should be strictly followed.***"
17. Similarly, in the case of **Moses Mwigigi & 14 Others V Iebc & 5 Others[20161 eKLR** the Supreme Court reaffirmed that political parties and assembly leadership matters should first be dealt with through internal mechanisms before invoking the court's jurisdiction.
18. **Exhaustion of Remedies:**
  19. *The doctrine of exhaustion in Kenyan constitutional jurisprudence requires parties to pursue all available administrative remedies before seeking judicial intervention. This principle is rooted in Article 159 (2) (c) of the Constitution, which promotes alternative forms of dispute resolution, including reconciliation, mediation, arbitration, and traditional dispute resolution mechanisms. The doctrine aims to ensure administrative bodies have the opportunity to resolve disputes before judicial intervention, promoting efficiency and reducing the burden on the judiciary. It is upheld by the Fair Administrative Action Act 2015, which mandates that any person aggrieved by an administrative*

*action must first exhaust internal mechanisms before seeking judicial intervention. The doctrine is applied in various contexts, including constitutional and administrative law, and is supported by case law and judicial interpretation to maintain the integrity of administrative processes and ensure administrative accountability.*

20. Courts have consistently enforced that parties must exhaust internal dispute resolution mechanisms before approaching the PPDT or the High Court. In the case of ***Gachenge & 4 others v United Democratic Alliance (2022)***: The court reinforced that the PPDT has the jurisdiction to resolve disputes involving coalitions, members, and parties. *David M. Mbuti v Jubilee Party & another (2017/2022)*: The Tribunal reiterated that failure to utilize internal party mechanisms deprives the PPDT of jurisdiction.
21. **The Narok county Assembly speaker deposed to fact that** the Narok County Assembly Standing Order No. 15, provides for the office of the leader of the minority party in the manner of the election and removal as follows.

***“The minority party or coalition of parties in the County Assembly shall elect a member of the County Assembly belonging to the party or coalition of parties to be leader of the minority party.”***

22. In electing members under paragraph (1), the minority party or coalition of parties in the County Assembly shall take into account an existing coalition agreement entered into pursuant to the Political Parties Act.
23. A member elected under paragraph (2) may be removed by a majority of votes of all members of the minority party or coalition of parties in the County Assembly. The removal of a member from office under paragraph (3) shall not take effect until a member is elected in the manner provided for under paragraph (1). ***“The whip of the Minority Party or coalition of parties in the County Assembly shall forthwith, upon a decision being made under this Standing Order, communicate to the speaker, in writing the decision together with the minutes of the meeting at which the decision was made.”***

24. As pertains to the instant matter he confirmed that he was aware of a letter written to the Clerk of the 2nd Respondent on the 13<sup>th</sup> May, 2025 on the removal of the applicant as leader of minority party. Further he was also aware of a second letter written to the Clerk of the 2nd Respondent on the 19<sup>th</sup> May, 2025 which replaced the earlier letter of 13<sup>th</sup> May, 2025 and not only relayed the removal of the applicant as leader of the minority party but also as member of the Narok County Assembly Service Board.
25. He verified that the letters met the threshold under the Narok County Assembly Standing Orders in terms of them being attached with minutes, the Resolution having being signed by a majority of members of Azimio Coalition and that the signatures of members were authentic. His stand is that the removal or replacement of the leader of the majority and minority in a county assembly lies within the leadership of the County Assembly and the political parties as per the law established under the County Governments Act, 2012 and the standing orders made under it as well as the Political Parties Act, 2012.
26. The changes in the impugned office are only transmitted to the county assembly through the clerk of the assembly for implementation and in no way is the office of the speaker nor that of the clerk involved in the decision. **THAT**, the House has no nexus whatsoever with the management of the political affairs of political parties and/or coalitions save as to affect the decisions when communicated to the House as done.
27. **THAT**, emphasis is laid to the fact that the office of the clerk not that of the Speaker is not in any way concerned with the appointments and/ or removal of the Party Leaders in the assembly, and the only obligation is to convey any correspondences directed through the Clerk to the speaker for further action. He sums up that County Assembly is a separate entity with its distinct functions and authority and, and that it cannot meddle into the political affairs of the members.

28. From the foregoing It is manifest that the dispute was triggered by the decision of the interested party AZIMIO coalition of parties thus the petitioner ought to have adhered to Doctrine of Exhaustion: thus follow the pathway set by Kenya law (Section 40 of the Political Parties Act, 2011) which mandates that all internal disputes must first be resolved through a party's internal dispute resolution mechanisms before escalating to the Tribunal. The PPDT's jurisdiction "*crystallizes*" only after the party member has demonstrated that they attempted to exhaust these internal mechanisms. Then if a party member not happy with those organs' decisions the High court appellate jurisdiction would be activated.
29. In the court finds that the application and the petition herein offend section 40 of the PPDT and the doctrine of exhaustion; thus makes orders.
- i) The petition along with amended application are hereby struck out.**
  - ii) The parties are directed to bear their own costs.**

**DATED AND DELIVERED AT NAROK VIA MICROSOFT TEAMS**

**THIS 13<sup>TH</sup> FEBRUARY 2026.**

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**CHARLES KARIUKI**

**JUDGE**