

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CONSTITUTIONAL AND HUMAN RIGHTS DIVISION

PETITION NO. E249 OF 2026

WILLIAM KASINA1ST PETITIONER

DEBORAH LINET.....2ND PETITIONER

RUTH BOLO.....3RD PETITIONER

(Suing on their own behalf and on behalf of other members of Parklands Baptist Church)

VERSUS

FAITH OUKO AND BRIAN OMUGANDA (sued as the registered officials of Parklands Baptist Church).....1ST RESPONDENT

REGISTRAR OF SOCIETIES.....2ND RESPONDENT

THE HONOURABLE ATTORNEY GENERAL.....3RD RESPONDENT

RULING ON INTERIM CONSERVATORY ORDERS

1. On 17th April 2026, this Court heard both parties' counsel on the petitioners' notice of motion dated 17th April 2026 brought under certificate of urgency seeking for a conservatory order to issue restraining the 1st respondent, its agents, servants or any persons acting under its authority from convening or

conducting the Annual General Meeting of Parklands Baptist Church Scheduled for 18th April 2026 or any other date.

2. The petitioners/pplicants also sought for a conservatory order to issue restraining the 1st respondent from conducting elections of Church Officials or amending the Church Constitution.
3. They further sought conservatory orders to suspend the implementation of or enforcement of the nomination, Election and Transition Policy and Appeals Dispute Resolution and Disciplinary ADRD Policy submitted to the 2nd Respondent.
4. The notice of motion was predicated on the grounds on the face thereof and the affidavit in support sworn by Deborah Linet, the 2nd Petitioner.
5. This Court certified the application as urgent for reasons that the scheduled elections were due for the following day which was on 18th April 2026. I also directed the petitioners/ applicants to serve the respondents with the petition and the application for interpartes directions at 4.00pm the same day of filing.
6. At 4.00pm. all parties' counsel appeared and they submitted on whether the conservatory orders should issue in the interim, pending hearing and determination of the application.

7. On behalf of the petitioners/ applicants, Mr .Mayogi submitted that there was an AGM to take place on 18/4/2026 communicated by the 1st respondent. That the petitioners are members of the church but that they had been ignored. That they had raised issues which had been ignored.
8. Counsel submitted that the notice of AGM was issued on 15/4/2026 not 15/3/2026 with an agenda. That the Church Constitution at Articles 73 and 74 provides for 21 days' notice.
9. He submitted that the petitioners were cut off from the communication by the respondents and they got the notice much later as shown by annexure 9. According to Mr. Mayogi, the notice was not served on the petitioners and that instead, it was circulated in a church WhatsApp group and that is how they came to know it and on 17/3/2026, the 2nd petitioner wrote to the registrar, raising issues pending prior to the Registrar earlier on suspending AGM vide letter of 12th April 2023. That the complaint letter initiated the complaint before the 2nd respondent and parties agreed to subject themselves to dispute resolution mechanism. He submitted that the church constitution does not provide for internal dialogue towards resolution of the dispute but that the 2nd respondent proposed this mode of resolution. He maintained that the petitioners came to court because the issues raised in the letter of

12/4/2023 were never resolved. That the petitioners were cut off from the out of court settlement process proposed by the 2nd respondent.

10. That the petitioners sought the cancellation of the AGM as sanctioned by the Registrar because the AGM was sanctioned without involving the petitioners and the pending issues have not been resolved.

11. It was submitted that the petitioners will be prejudiced if the AGM proceeds as the fair and free elections are not guaranteed. He prayed for order No. 2 of the petition restraining the respondents from conducting the AGM and elections of church officials to enable the petitioners participate in fair and transparent elections, adding that the respondents would not suffer any prejudice.

12. In response, Mr. Peter Waiyaki counsel for the 1st respondent submitted that on alleged urgency of the application, the AGM notice was issued 33 days earlier by email, church WhatsApp groups and specifically onto the petitioners. That as at 17/3/2026, from the petitioners' affidavit and submissions, they knew of the AGM hence their letter written to the Registrar. It was submitted that in 2023, the petitioners had raised issues which were ventilated before the Registrar and Justice Chigit SC.

13. That on 25/2/2026 the Registrar wrote to all parties confirming that she had gone through all resolutions and invited the petitioners and the 1st respondent

and was satisfied that over 50 meetings had been held and a dispute resolution policy adopted. That the church had waited for 3years to call for election including to get accounts. Further, that the 2nd petitioner is an advocate of this court therefore she knows the law and procedure. Counsel submitted that the petitioners had come to court at the last minute just to stop Church elections.

14. On the issue of notice for the AGM, it was submitted that on every Sunday, and so far, 5 Sundays, the notice of AGM had been announced to all members of the Church.

15. on dispute resolution, it was submitted that Article 8 of the church constitution provides that any dispute shall be resolved through the internal dispute resolution mechanisms while Article 35 spells out that mechanism. He submitted that there was absolutely no urgency and therefore, no reason has been advanced to stop the AGM, noting that huge resources had been expended to convene AGM the following day. He urged this Court not to stop the AGM, arguing that there was malice and bad faith on the part of the petitioners.

16. In a brief rejoinder, Mr. Mayogi submitted that the issues raised in the letter of 12/4/2023 remained unresolved and that Mr. Waiyaki's submissions go to the root of the main petition. He submitted that no prejudice would be

suffered if the AGM is suspended so that the petitioner's grievances can be comprehensively addressed. That it was in the interest of justice that prayers 2 & 3 of the motion dated 17/4/2026 are granted.

17. After hearing parties' counsel on whether to grant interim conservatory orders, I declined to grant the orders sought and allowed the AGM to proceed as scheduled. I however posted the order on the case tracking system and reserved the reasons to be given within seven days owing to the fact that the application was heard late and the court had another pending interpartes certificate of urgency involving different parties, to consider that evening.

18. I now proceed to give reasons for declining to grant interim conservatory orders stopping the scheduled AGM and elections which were to take place the following day on 18th April, 2026.

19. As I provide the reasons, I am aware that this is not the final decision of the court on the merits of the petition and the application dated 17th April 2026 and therefore I shall not delve into the merits of the petition.

20. The issue for determination is whether the Court should have granted the conservatory order stopping the scheduled AGM, the elections and implementation of the policy pending hearing and determination of the notice of motion.

21. This Court derives authority to uphold and enforce the Bill of Rights under Article 23 of the Constitution. Under this Article, the court can issue conservatory orders in constitutional petitions brought under Article 22. Conservatory or interim orders as prayed for by the petitioners herein are provided for under The Constitution of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules, 2013 (Mutunga Rules) Rule 23. The Rule stipulates that-(1) Despite any provision to the contrary, a Judge before whom a petition under rule 4 is presented shall hear and determine an application for conservatory or interim orders.

22. Conservatory orders envisioned under Rule 23 are issued when the petition is pending before the court and the said orders are granted pending hearing and determination of the petition. The Rule further permits the grant of interim conservatory orders pending the full hearing of the application for conservatory orders.

23. In this case, from the submissions of counsel for the parties and the pleadings by the petitioners, it is clear that the notice for the AGM was issued 33 days prior to the date when the petitioners filed their petition. The petitioners claim that they were not served with notice but they concede that they received the notice through the Church WhatsApp and from the contents of the letter to the Registrar dated 17th March 2026, referring to the

Notice dated 15th March 2026, they had timely and sufficient knowledge and time to approach this court or engage in the alternative dispute resolution mechanisms provided for by the Church Constitution.

24. Instead, they waited until the eve of the AGM to seek to stop the AGM and the agenda for the AGM which included elections, not to proceed.

25. As stated above, I will not even delve into the question of dispute resolution mechanisms available as per Article 8 of the Church Constitution. I will focus on the delay and its effect on the urgent orders sought to stop the AGM and processes.

26. The grant of interim conservatory or injunctive relief is an equitable remedy, exercised in the discretion of the Court and guided by well-established principles, including promptness and good faith on the part of the Applicant. An applicant who seeks the Court's intervention must demonstrate urgency and act without undue delay.

27. In the present case, the petitioners/ applicants did not offer any satisfactory explanation for the delay in approaching the Court. Having been aware of the AGM in good time, the petitioners elected to remain inactive until the last moment. This Court cannot countenance a situation where a party creates its own urgency and then seeks to rely on it as a basis for the grant of equitable relief.

28. Further, granting the orders sought at this late stage would occasion prejudice to the Respondents and other members of the Church who have spent money and time preparing for the AGM. Equity aids the vigilant and not the indolent.

29. In the circumstances, I find that the petitioners/ applicants failed to meet the threshold for the grant of interim conservatory orders.

30. The notice of motion application for interim conservatory orders restraining the holding of the AGM and or suspending any other processes set in motion by the respondents was declined.

31. Costs shall be in the cause.

Dated, Signed and Delivered at Nairobi this 24th Day of April, 2026

R.E ABURILI

JUDGE