



Aluochier & another v County Assembly of Migori & 4 others (Civil Appeal E037 & 38 of 2023 (Consolidated)) [2023] KECA 604 (KLR) (26 May 2023) (Judgment)

Neutral citation: [2023] KECA 604 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT KISUMU
CIVIL APPEAL E037 & 38 OF 2023 (CONSOLIDATED)
PO KIAGE, M NGUGI & JM NGUGI, JJA
MAY 26, 2023**

BETWEEN

ISAAC ALUOCH POLO ALUOCHIER APPELLANT

AND

COUNTY ASSEMBLY OF MIGORI 1ST RESPONDENT

**VINCENSIA AWINO KIONGE, CLERK OF THE COUNTY ASSEMBLY OF
MIGORI 2ND RESPONDENT**

CHARLES OWINO LIKOWA 3RD RESPONDENT

**AS CONSOLIDATED WITH
CIVIL APPEAL 38 OF 2023**

BETWEEN

COUNTY ASSEMBLY OF MIGORI APPELLANT

AND

ISAAC ALUOCH POLO ALUOCHIER 1ST RESPONDENT

VINCENSIA AWINO KIONGE 2ND RESPONDENT

CHARLES OWINO LIKOWA 3RD RESPONDENT

(An appeal from the judgment and decree of the High Court of Kenya at Migori (Wendoh, J.) dated 21st February, 2023 in Constitutional Petition No. E006 of 2022)



JUDGMENT

1. The appeals the subject of this judgment arise from the election of the 3rd respondent, Charles Owino Likowa, as the Speaker of the County Assembly of Migori. In his petition before the High Court, Isaac Aluoch Polo Aluochier, the appellant sought orders for the nullification of the elections, and for a declaration that he was the only validly nominated candidate for the seat, and should therefore be declared the duly elected Speaker of the County.
2. In its decision, the High Court (Wendoh. J.) allowed the petition and nullified the election of the 3rd respondent. The court did not, however, issue the orders sought by Aluochier. It issued orders that elections for the office of the Speaker should be held within 21 days of its decision.
3. All the parties to the petition were dissatisfied with the decision and two have filed the appeals now before us.
4. At the hearing of the appeals, by consent of the parties, the appeals were consolidated and were canvassed by Mr. Aluochier, Mr. Okong'o for the 1st respondent, Ms. Aron for the 2nd respondent and Mr. Munuango for the 3rd respondent.
5. We have considered the respective memoranda of appeal, the submissions of the parties and the authorities cited. Our decision on the consolidated appeals is that they are both devoid of merit, and are hereby dismissed. Each party shall bear its own costs of the appeal.
6. This judgment is rendered pursuant to Rule 34(6) of the [Court of Appeal Rules](#) 2022 conveying the decision of the Court with the reasons therefor to be given on 22nd September 2023. We set that date having considered and rejected arguments that the reasons must be given within 90 days under the [Fair Administrative Action Act](#).
7. Order accordingly.

DATED AND DELIVERED AT KISUMU THIS 26TH DAY OF MAY, 2023.

P. O. KIAGE

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JUDGE OF APPEAL

MUMBI NGUGI

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JUDGE OF APPEAL

JOEL NGUGI

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JUDGE OF APPEAL

I certify that this is a true copy of the original

Signed

DEPUTY REGISTRAR

