



**Ncharo v The County Assembly of Kajiado & 3 others (Petition
E056 of 2023) [2023] KEELRC 3050 (KLR) (23 November 2023) (Ruling)**

Neutral citation: [2023] KEELRC 3050 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
PETITION E056 OF 2023
AN MWAURE, J
NOVEMBER 23, 2023**

BETWEEN

JEREMIAH NCHARO PETITIONER

AND

THE COUNTY ASSEMBLY OF KAJIADO 1ST RESPONDENT

THE SPEAKER, COUNTY ASSEMBLY OF KAJIADO 2ND RESPONDENT

THE CLERK, COUNTY ASSEMBLY OF KAJIADO 3RD RESPONDENT

THE GOVERNOR, COUNTY ASSEMBLY OF KAJIADO 4TH RESPONDENT

RULING

1. The applicant's notice of motion dated 24th March 2023 sought the following orders:
 1. That this application may be certified as urgent and the same be admitted for hearing *ex parte* at the first instance.
 2. That pending the inter partes hearing and determination of this notice of motion, this honourable court be pleased to issue a conservatory order by way of a temporary injunction to restrain the 4th respondent from acting upon or in any way implementing the resolution passed by the 1st respondent on 21st March 2023 and communicated to the 4th respondent vide a letter dated 21st March 2023 signed by the 2nd respondent assigning the 4th respondent to implement the resolution passed by the 1st respondent which resolved to adopt the report of the select committee on the removal of the petitioner from office as the County Executive Committee Member for educational vocational training, Youth and Sports at the County Government of Kajiado.
 3. Pending the hearing and determination of the petition, this honourable court be pleased to issue a conservatory order by way of a temporary injunction restraining the 4th Respondent



from acting upon or in any way implementing the resolution passed by the 1st Respondent on 21st March 2023 and communicated to the 4th Respondent vide a letter dated 21st March 2023 signed by the 2nd Respondent asking the 4th Respondent to implement the resolution passed by the 1st Respondent which resolved to adopt the report of the Select Committee on the removal of the Petitioner from office as the County Executive Committee Member for Education, Vocational Training, Youth and Sports at the County Government of Kajiado.

4. costs of this application be provided for.
2. The applicant also filed a petition dated 24th March 2023 seeking the following orders:
 1. A declaration that the proceedings for the removal of the petitioner from office as the county executive committee member (CEC) in charge of Education, Vocational Training, Youth and Sports at the County Government of Kajiado was conducted in violation of articles 10,25,47 and 50 of the Constitution of Kenya, 2010 and hence unconstitutional, illegal, null and void.
 2. A declaration that 1st respondent acted unlawfully by invoking and implementing amended standing order no 62 of the Kajiado county assembly standing orders in defiance to a lawful order issued by the High Court in Kajiado High Court Petition No E004 of 2023 (Henry Namiti Shitanda v The County Speaker, Kajiado County & 2 Others) and as a consequence, the process and proceedings relating to the removal of the petitioner were illegal, null and void.
 3. An order for certiorari removing into this court and quashing the 1st respondents' proceedings and resolution passed on 21st March 2023 approving the removal of the petitioner from office as the County Executive Committee Member (CEC) in charge of Education, Vocational Training, Youth and Sports at the County Government of Kajiado.
 4. An order of permanent injunction restraining the 4th respondent, the Governor of the county of Kajiado from implementing the resolution passed by the 1st respondent on 21st March, 2023 as notified to the 4th respondent by the 2nd respondent vide a letter dated 21st March 2023 which resolution seeks to remove the petitioner from office as the County Executive Committee Member (CEC) in charge of education, vocational training, youth and sports at the county government of Kajiado.
 5. Costs of this petition.
 6. Any other relief the court may deem fit and just to grant.
3. The orders sought in summary are pertaining to issuance of a conservatory order to restrain the 1st respondent from acting upon or in any way implementing the resolution to remove the petitioner from office as the County Executive Committee member for education. Vocational training, youth and sports of the county government of Kajiado and are more or less the same as in the notice of motion and in the petition.
4. Upon retiring and reading the application critically and the petition and having written a draft ruling of the application on second thoughts the court considered it prudent on the courts time as well as the parties to enjoin the notice of motion and petition and deliver a final judgment on the aforesaid petition.
5. The court therefore have halted the delivery of the application and orders the respective parties to file submissions if they so wish pertaining to the main petition. The petitioner has 7 days to file his submissions and upon service the respective four respondents will file their submissions on the petition within 7 days.



6. This will also be prudent on saving courts time because after delivering the ruling the parties would now have to proceed to prosecute the petition which petitioner raises more or less the same issues as in the application.
7. The status quo to be maintained as per the order granted on 18th April 2023.
8. The case will be mentioned on 19/12/2023 to give a date for judgment.

DATED, SIGNED AND DELIVERED VIRTUALLY IN NAIROBI THIS 23RD DAY OF NOVEMBER, 2023.

ANNA NGIBUINI MWAURE

JUDGE

Order

In view of the declaration of measures restricting Court operations due to the COVID-19 pandemic and in light of the directions issued by His Lordship, the Chief Justice on 15th March 2020 and subsequent directions of 21st April 2020 that judgments and rulings shall be delivered through video conferencing or via email. They have waived compliance with order 21 rule 1 of the Civil Procedure Rules, which requires that all judgments and rulings be pronounced in open Court. In permitting this course, this Court has been guided by Article 159(2)(d) of the Constitution which requires the Court to eschew undue technicalities in delivering justice, the right of access to justice guaranteed to every person under article 48 of the Constitution and the provisions of section 1B of the Procedure Act (Chapter 21 of the Laws of Kenya) which impose on this Court the duty of the Court, inter alia, to use suitable technology to enhance the overriding objective which is to facilitate just, expeditious, proportionate and affordable resolution of civil disputes.

A signed copy will be availed to each party upon payment of Court fees.

Anna Ngibuini Mwaure

Judge

