



Ouma & another v Migori County Assembly Service Board & 6 others (Petition E032 of 2022) [2022] KEELRC 12751 (KLR) (6 October 2022) (Ruling)

Neutral citation: [2022] KEELRC 12751 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KISUMU
PETITION E032 OF 2022
CN BAARI, J
OCTOBER 6, 2022**

BETWEEN

EVANS OGUTU OUMA 1ST APPLICANT

ORWA ODONGO MICHAEL 2ND APPLICANT

AND

MIGORI COUNTY ASSEMBLY SERVICE BOARD 1ST RESPONDENT

MIGORI COUNTY ASSEMBLY 2ND RESPONDENT

DURO GEORGE OKINYI 3RD RESPONDENT

OUMA EDWARD OORO 4TH RESPONDENT

RIOBA NICHOLAS NGABIYA 5TH RESPONDENT

GRACE AKINYI ODHIAMBO 6TH RESPONDENT

ONANDA CHRISTOPHER ODIRA 7TH RESPONDENT

RULING

1. The petitioners/applicants by a motion dated July 4, 2022, brought pursuant to rule 17 of the [Employment and Labour Relations Court \(Procedure\) Rules, 2016](#), order 40 rules 1, 2, 3 & 4 of the [Civil Procedure Rules](#) and article 41 of the [Constitution](#). The applicants seek orders that:
 - i. spent
 - ii. spent
 - iii. This honourable court be pleased to grant a temporary order of injunction restraining the respondents by themselves, servant, agents or otherwise howsoever from interfering with the



applicants/petitioners discharge of their duties as principal finance officer and acting clerk respectively of the 2nd respondent pending hearing and determination of this petition.

- iv. spent
 - v. The honourable court be pleased to issue a temporary order of injunction restraining the 3rd, 4th, 5th, 6th & 7th respondents from carrying themselves as members of the 1st respondent and/or executing any mandate on behalf of the 1st respondent pending hearing and determination of the petition.
 - vi. costs of the application.
2. The motion is supported by grounds on the face thereof, and the affidavit of Evans Ogotu Ouma, the 1st petitioner herein. The applicants contend that they are the lawful holders of the offices of principal finance office and acting clerk of the county assembly of the 2nd respondent.
 3. They further aver that the 3rd, 4th, 5th, 6th & 7th respondents have gazetted themselves as members of the 1st respondent having illegally restrained and denied the applicants from exercising their duties and mandate as principal finance officer and acting clerk of the assembly.
 4. It is the applicants further contention that the respondents have visited chaos on the conduct of the affairs of the 1st and 2nd respondent thereby exposing the citizens of Migori county to risks of disservice and financial losses.
 5. The respondents opposed the application through a replying affidavit sworn on July 8, 2022 by one Vincensia Awino Kionge.
 6. Both parties filed submissions in the matter and which have been duly considered.

Determination

7. I have considered the application, the grounds and affidavit in support, the respondents replying affidavit and written submissions by parties.
8. The orders sought in this application have in my view been overtaken by events following the issuance of letters of dismissal to the petitioners/applicants herein, and the change of membership of the 1st respondent pursuant to the just concluded general election.
9. In this regard, the orders and/or decision of the court rendered in the application of July 7, 2022, in this matter shall suffice.
10. Consequently, the instant application is dismissed for having been overtaken by events.
11. Costs shall abide the petition.
12. It is so ordered.

SIGNED, DATED AND DELIVERED BY VIDEO-LINK AND IN COURT AT KISUMU THIS 6TH DAY OF OCTOBER, 2022.

CHRISTINE N. BAARI

JUDGE

Appearance:

Mr. Evans Ogotu 1st Applicant present in person



Mr. O. Obiero present for the Respondents

Ms. Christine Omollo-C/A

