



COUNTY GOVERNMENT OF KITUI
THE COUNTY ASSEMBLY
THIRD COUNTY ASSEMBLY - (THIRD SESSION)
COMMUNICATION FROM THE CHAIR

NO. 53 of 2024

**COMMUNICATION AS RELATES TO THE JUDGEMENT DATED 14TH NOVEMBER, 2024
IN CIVIL APPEAL NO. 001 OF 2024 ON CHANGE OF LEADERSHIP IN THE MAJORITY
PARTY POSITIONS OF MAJORITY PARTY LEADER AND MAJORITY PARTY WHIP.**

Honourable Members,

As you all recall, on 26th March, 2024 via my communication No. 9 of 2024 I informed this House of the High Court's ruling on the legal proceedings concerning the positions of Leader of the Majority Party and Majority Party Whip where the Court had found no merit in the application filed by Hon. Harrison Maluki Mawia and Hon. Boniface Mukwate Katula on 17th January 2024, upholding the PPDT ruling that restrained them from holding or acting as the Leader of the Majority Party and Majority Party Whip, respectively, pending the hearing of the appeal. Since then, Hon. Munyoki Mwinzi and Hon. Daniel Kimanzi Ngoima have been serving as the Leader of the Majority Party and the Majority Party Whip, respectively.

Honorable Members,

On 3rd September, 2024, the Deputy Majority Party Whip communicated to my office vide a letter attached with minutes pursuant to Standing Order 15(9) on the Change of leadership by members of the Majority Party.

Guided by the decision of the Honorable Tribunal issued in **PPDT E019/2023, Hon. Munyoki Mwinzi & Hon. Daniel Ngoima vs Harrison Maluki Mawia & Boniface Mukwate**

Katula & Ors, which held that, the Speaker is required to act on the wishes of members of the party and not wade into the dispute.

Honorable Members,

I subsequently proceeded and issued a communication dated 4th September, 2024 in the House regarding the removal and replacement of **Hon. Munyoki Mwinzi** with **Hon. Harrison Maluki Mawia** as the Majority Party Leader and **Hon. Daniel Kimanzi Ngoima** with **Hon. Boniface Katula Mukwate** as the Majority Party Whip.

Honorable Members,

Upon issuance of the said communication in the House, Hon. Munyoki Mwinzi and Hon. Daniel Kimanzi Ngoima went to seek a redress of the court by filing a complaint in the Political Party Dispute Tribunal Vide PPDT NBI Complaint No. E011 OF 2024.

Honorable Members,

In response to their Complaint, the advocate for Hon. Harrison Maluki Mawia and Hon. Boniface Mukwate Katula filed a Notice of Preliminary Objection dated 17th September, 2024 objecting the jurisdiction of this Tribunal to hear and determine the instant complaint and Application by dint of Section 40(2) of the Political Parties Act, 2011 on grounds that;

1. The complainants did not subject the dispute to the political party's internal dispute resolution mechanism (IDRM) outlined in Chapter 7 of the Wiper Party's Constitution.
2. The complainants' Complaint and the application are incompetent, frivolous, vexatious and an abuse of the court process as the complainants were fully aware of the outcome in PPDT E019 OF 2023 where the facts were similar to the facts in this case and this Honorable Tribunal upheld the process of removal from office of the Hon. Harrison Mawia Maluki and Hon. Boniface Mukwate in a process identical to the process followed by the members of the Wiper Party.

Honorable Members,

The preliminary Objection was upheld and the Complaint filed by Hon. Munyoki Mwinzi and Hon. Daniel Ngoima Kimanzi was struck out.

It is worthy to note that Hon. Munyoki Mwinzi and Hon. Daniel Ngoima Kimanzi filed the Complaint in the Tribunal well knowing that there is a pending appeal in the High

Court of Kenya in Kitui against the decision of this Tribunal in PPDT E019 of 2023 which was determined in their favour.

Honorable members,

I wish to bring to the attention of this Honorable House that, **Civil Appeal No. 001 of 2024** between Hon. Harrison Maluki Mawia and Hon. Boniface Mukwate Katula as appellants and Hon. Munyoki Mwinzi and Hon. Daniel Ngoima Kimanzi as the Respondents and the Wiper Democratic Movement and the County Assembly of Kitui as interested Parties was heard and judgement was issued on 14th November, 2024 in favour of Hon. Harrison Maluki Mawia and Hon. Boniface Mukwate Katula.

Honorable Members,

In said judgement, court found that the Political Parties Dispute Tribunal lacked the requisite Jurisdiction to entertain a dispute falling outside the dispute stipulated under Section 40(1) & (2) of the Political Parties Act and that, it acted in excess of their jurisdiction.

Section 40(1) & (2) of the Political Parties Act which provides that, the Tribunal shall determine;

- a) Disputes between the Members of a political party;
- b) Disputes between a member of a political party and the political party;
- c) Disputes between political parties;
- d) Disputes between an independent candidate and a political party;
- e) Disputes between coalition partners;
- f) Appeals from decisions of the Registrar under this Act; and
- g) Disputes arising out of party nominations.

(2) Notwithstanding subsection (1), the Tribunal shall not hear or determine a dispute under paragraphs (a)(b)(c) (e) or (f) unless a party to the dispute adduces evidence of an attempt to subject the dispute to the internal political party dispute mechanism.

The court further found that, the issues of quorum or business of the County Assembly and adherence to its Standing Orders is a no go zone to the Political Parties Dispute Tribunal.

Honorable Members,

The Court therefore found merit in the prayer by the appellants in this matter that is Hon. Harrison Maluki Maliwa and Hon. Boniface Mukwate Katula to set aside the judgement of the Political Parties Tribunal Dispute PPDT E019 OF 2023.

While issuing the judgement, the Court took cognizant of the fact that the substratum of the appeal was the replacement of Hon. Harrison Maluki Mawia and Boniface Mukwate Katula in the contested house leadership which is now water under the bridge and is overtaken by events of the subsequent elections that removed Hon. Munyoki Mwinzi and Hon. Daniel Ngoima Kimanzi and replaced them with Hon. Harrison Maluki Mawia and Hon. Boniface Mukwate Katula.

Honorable Members,

Lastly, I congratulate Hon. Harrison Maluki Mawia and Hon. Boniface Mukwate Katula for their affirmation by the High Court of Kenya in Kitui and wish them well in the dispatch of their roles as the Majority Party Leader and Majority Party Whip respectively and assure them of my full support. My Office shall remain open for any consultations or assistance they may require as I strive to promote party democracy in election of party leadership positions.

Thank you.



HON. KEVIN KINENGO KATISYA
SPEAKER, COUNTY ASSEMBLY OF KITUI

19TH NOVEMBER, 2024