

REPUBLIC OF KENYA
MACHAKOS COUNTY ASSEMBLY
OFFICIAL REPORT

Tuesday, 5th December, 2017

The House met at 3.06 p.m.

[The Speaker (Hon. (Mrs.) Mwangangi) in the Chair]

PRAYERS

Hon. Speaker: Please be seated Hon. Members we deal with the business for the day.

MOTIONS

Hon. Speaker: Hon. Members, under this order, we have two businesses and the first Motion is by the Majority Leader; we will deal with the second one when we come to it. Hon. Majority Leader.

FORMATION OF PEOPLE'S ASSEMBLY

(Hon. Ngunga 29.11.2017)

(Resumption of Debate on the Motion tabled on 9.11.2017)

Hon. Ngunga: Thank you, Madam Speaker, thank you. Hon. Members, good afternoon?
Hon. Members---

Hon. Speaker: Just a moment Hon. Majority. Point of Order Hon. Moffat.

Hon. Maitha: Madam Speaker, when this Motion came before us the other time, you told the Majority to seek some legal advice and you have not told us whether that legal advice was sought and if so---

(Applause)

.....where is that letter which makes us debate this Motion when we know that contrary to Standing Order 83, any matter which is in Court should not be discussed until it is dispensed with, Madam Speaker.

(Applause)

Hon. Masesi: Point of information.

Hon. Speaker: Hon. Members, I do recall that directive which I gave and I would expect the Hon. Majority to provide that legal opinion and Members,.....Hon. Majority Leader, just a moment. If you are directed by this House to do a certain chore, you must do it before you proceed forward. So, Hon. Majority Leader, address us on that particular point.

(Applause)

Hon. Ngunga: Thank you Madam Speaker, thank you Hon. Members, thank you Hon. Moffat Maitha. Moffat Maitha, I think it is important to note that this is a House of procedure, that when issues are raised, they are dealt with conclusively and Madam Speaker, when I came to this House, I gave a notice of this Motion some two weeks back and I also came up and said that, there were issues that had come up about orders that came up in Court in Kitui.

Madam Speaker, I indicated that I was going to seek legal interpretation of the same and I have been able to do the same and the office of the Clerk Madam Speaker has been served with a letter. Members, it is also important to note that for a motion to find itself here, it has to go through the procedural way. One of it is that, that issue of the legal opinion has since been sought. Remember, Madam Speaker---

(Applause)

.....we have a Department in this Assembly. There are two issues here, there are issues that touch on this motion and I am sure Madam Speaker, this is a Motion of national importance and it is actually a party motion, it is not my motion. So, I understand the kind of heat that Members are coming up. I know Hon. Maitha represents the party in question here and so Madam Speaker, I have since been able to provide that to the office of the Clerk and that is how this motion finds its way here.

(Applause)

Madam Speaker, having said that, therefore Madam Speaker---

Hon. Speaker: Hon. Majority, let me give directions on this matter. Hon. Members, and I told you the other time, I am going to make sure that discipline in this House is maintained. So, even as you rise up on points of order you rise up to submit, please honor the discipline and the rules of this House. I ask all of you.

(Applause)

This is a matter that has been raised on the legality because of a court order that is pending. Can we ventilate on this issue Members? And I want to hear the views of the Members on this particular point; on the issue of the order that has been given in Court. Can we discuss it? Not yet on the motion but the issue of the legality of the motion. Is there anyone who wants to contribute on it? Anastacia.

Hon. (Ms.) Mutuku: Thank you, Madam Speaker. Is it in order to debate a motion which is already in court and as we have the notice gazetted here, this case will be heard on 25th January? Is it in order? And as I, know Madam Speaker, you are conversant with the law, is it correct to mislead the people of Machakos County to pass a motion which is not constitutional and is on a personal agenda? Thank you, Madam Speaker.

Hon. Speaker: I am going to listen to all Members who want to contribute on this particular ventilation because we want to know what the issue on the motion is.

Hon. Mitaa: Point of Order! Madam Speaker...

Hon. Speaker: Hon. Mitaa, point of order?

Hon. Mitaa: I am sorry but from my colleague there, the way she has contributed, it is like you have already concluded on the way forward on this motion. I wish she could withdraw some of the statements she has made.

Hon. Speaker: Hon. Members, for your guidance again and I will do it, I know the emotive feelings particularly on this motion. It is always good if there are issues of legality raised, let us ventilate on them. We are not dealing with the substance of the motion; please do not touch on the substance of the motion. In other words we call it preliminaries; are there any issues that would stop us from debating this particular motion? That is what I would want to hear.

Hon. Ngunga: Thank you. Madam Speaker, if I may respond, I do not know whether Members have actually been able to look at the said orders and if they have, then they would be in a better position to argue about this because Madam Speaker, the orders that were sought and so given and when I went to seek the legal advice which was not my advice, and which is a legal...we have a department in this Assembly that is supposed to advise this House and the legal opinion that I sought was not out of this House; it was actually the legal department in the Machakos County Assembly that gave this advice here.

(Applause)

It would be a question for this House, for example, if I had sought a legal opinion from my friend, from my own firm, but this is a legal opinion that has been sought from the County Assembly Legal Department here. This Department is within us, within this institution here and I have been able to give that information to the Clerk. Let me say this again Members, if you have been able to look at the orders that were so obtained, the orders do not bar the House from debating, the orders talk about constituting. We are not constituting the People's Assembly here; we are only passing it.

(Applause)

We are only passing the People's Assembly and there are two different things here Madam Speaker in those orders that Members you need to understand---

Hon. Speaker: I am not going to take a point of order on a point of order. Let the Member first finish.

Hon. Ngunga: And so what I am saying, Madam Speaker, it will also be important for Members not to blatantly just say the orders about this Motion that I am just about to present before this House for debate. The orders that are there are not about debating and let me tell you again Madam Speaker, this House cannot be barred from debating motions; it can never be barred from debating motions---

(Applause)

The courts out there cannot be able to make rulings about the debates that are going to be here. The debates of the House here...this is already a quasi-judicial independent body. How therefore do you tell me that---

(Applause)

.....what is out there would not be giving us time to debate. This is a matter of national importance, this House has not been barred by anybody, or any order to debate this motion and if so, I want those Members that are saying there are orders barring us from moving, to table that here. Thank you, Madam Speaker.

(Applause)

Hon. Speaker: Hon. Members, let us just be objective and we come down because we need to be very sober as we discuss the issues that are at hand and we will get there. Hon. Kiteng'u.

Hon. Kiteng'u: Thank you, Madam Speaker. Madam Speaker, I just want to add on what the Majority Leader has said. This motion found itself in this House before the Kitui court.

(Applause)

Madam Speaker, I would request whoever is trying to defend the motion to understand that this is a party matter whereby---

(Applause)

---on 26th as NASA, we did not participate in 26th Presidential Election.

(Applause)

Therefore, I would request if it is a matter of a Court Order in Machakos County Assembly, whoever is defending can be able to move, go ahead and serve the mover of the motion with a Court Order to stop him from moving the motion. Thank you, Madam Speaker.

(Applause)

Hon. Speaker: Hon. Steve Mwanthi.

Hon. Mwanthi: Thank you, Madam Speaker. I want to understand that we are already debating this motion. So, I thought it was good that we read the motion and still debate because now that is what we call the debate. If we are going to pluck it, we do it when we have already debated because already I think we already have the motion in the House, the HANSARD is there and we are already debating the motion. Thank you.

(Applause)

Hon. Speaker: Hon. Cosmus.

Hon. Ngunga: Point of Order! Madam Speaker. You know, Madam Speaker, again, I think---

Hon. Speaker: I have not allowed you Hon. Majority Leader---

(Laughter)

---because we are going to follow order in this House. I asked Hon. Cosmus to address me.

Hon. Masesi: Thank you, Madam Speaker. I just want to make a contribution on the same and I want to believe that I have the support of the Members that this is a Hon. House where we deal with facts not hearsays.

(Applause)

And I am not aware if at any given time we were served with the Court Orders to bar us from moving on with the motion---

(Applause)

---and again, if there is any Court Order, let it be tabled, not about the hearsay. Thank you, Madam Speaker.

(Applause)

Hon. Speaker: Thank you, Hon. Cosmus. Hon. Mwikali.

Hon. Ngunga: Point of Order! Madam Speaker.

Hon. Speaker: Point of order, Hon. Francis Ngunga.

Hon. Ngunga: Madam Speaker, again I rise on a very serious point of order and I want to say here and now that as Hon. Steve is saying, the business that we are undertaking now as a House has already been undertaken in the last three days; the 30th, yesterday and today by the House Business Committee. I am saying that because it is now Members are arguing whether this motion should be admitted or not but it is the role of the business committee to ensure that motions find themselves here and so when motions find themselves in the House here, it is the business of this House to debate on the motion or reject the motion or pass it. Otherwise, whether the motion is right here, that is the role of the House Business Committee and the Business Committee that has representation from both Houses---

(Applause)

---has been able to sit there, has been able to ballot a time for this motion and this motion was balloted today at 2:30p.m. and so Madam Speaker, when we sit here as a House and start

debating whether this motion should go or not, we are usurping the powers of the House Business Committee. Thank you, Madam Speaker.

(Applause)

Hon. Speaker: Hon. Members, the work of the Speaker is to guide the procedure of this House. Can I let you know Members, this is not the first time this is happening in this Assembly. It has happened in the National Assembly, it has happened in the Senate and if there is an issue of legality of any motion, it is a preliminary issue which you need to address before you come to the substance of the motion and that is why I said let us ventilate on the issue of legality or otherwise of this motion before we go to the motion itself.

So, please do not touch on the substance of the motion. We cannot close our eyes to what the feelings are. Let us ventilate it and with very sober minds. It is not the end of the world, is it?

(Applause)

Hon. Members, kindly. So, we have Hon. Mwikali...I want each one of the Member who wants to ventilate on the issue of the constitutionality of this motion to speak before we go into the substance of the motion. Hon. Mwikali.

Hon. (Ms.) Mwikali: Thank you, Madam Speaker. I thank the Speaker so much for giving me this opportunity. Madam Speaker, anything that is illegal does not find itself in this House. Starting with the House Business Committee and our Clerks, everybody. This motion found itself in this House and the good thing is that there is no Court Order stopping the great County Assembly of Machakos from debating and thinking about the great people of Machakos County.

Most of us, Madam Speaker, did not vote on the 26th and any Member who is here, and they have come along in this House. They know that it is of public importance that we discuss matters pertaining to them and that they are all of importance.

Madam Speaker, I am of the view that since there is no Court Order stopping us from debating and passing or rejecting this Motion, we go ahead, debate it and those who do not feel like they can pass it then they reject it and that will be their own constitutional right.

(Applause)

Madam Speaker, I beg to stop there.

Hon. Speaker: Thank you, Hon. Mwikali. Hon. Maitha, you mentioned a Court Order. Do we have the Court Order in this House?

Hon. Maitha: Madam Speaker, I have with me here a newspaper which upon the request by the Parliament of Kitui, the County Assembly of Kitui, which wanted to pass this motion...

Hon. Ngunga: Point of order, Madam Speaker.

Hon. Speaker: Just a moment, Hon. Maitha. We have a point of Order.

Hon. Ngunga: Thank you, Madam Speaker. I just want to find out from your Chair Madam Speaker, what kinds of documents are admissible in this House as evidence? When Hon. Maitha says that he has a newspaper, we know we have various, in fact I write for a newspaper myself. It could actually be my write up---

(Applause)

---I do not know the kind of paper that Hon. Maitha wants to present to this House because when you talk about documents and when you talk about Court Order, Madam Speaker you are aware, a Court Order, it is true it can be published in a newspaper but you understand that a Court Order...this is already a constitutional House that can be served, can also serve.

(Applause)

Madam Speaker, the office of the Clerk, so properly constituted, has it been served and if yes, the office of the Clerk if it has been served, have we been restrained from debating this motion? And if yes, then I will forthwith stop from moving this motion. Thank you, Madam Speaker.

Hon. Maitha: Madam Speaker, I want to answer him---

Hon. Speaker: Hon. Moffat Maitha, I am still giving guidance on the issues of legality that are arising. Hon. Majority, service of any Court process and a Court process includes the pleadings you file, it includes the orders, it includes the decrees, can either be in person, can be by delivery into the office, can also be by advertisement in a newspaper---

(Applause)

---I am just letting you know. So, if there is an order that is advertised in a newspaper, you may want to interrogate that.

Hon. Maitha: That is what I was saying Madam Speaker, that, the County Development Group of Kitui, was directed by Justice Mutende to serve the respondent that, such a motion

should not be discussed in any Parliament and here when you look at it, 46 other counties, it is the County of Kitui and 48 other County Assemblies....

(Loud consultations)

---and here is the notice.

Hon. Ngunga: Point of Order, Madam Speaker---

Hon. Maitha: An interim on conservatory order---

Hon. Speaker: Just a moment Hon---

Hon. Maitha: And it is hereby granted that no discussion of that matter because this one is in Court.

Hon. Speaker: Hon. Maitha, can you take notice that we do not have 49 Counties in Kenya.

Hon. Maitha: 46 Counties---

Hon. Speaker: You said 48 other Counties.

Hon. Maitha: I withdraw it is 46 and again Madam Speaker, when you go to Standing Order 85(1)(c) and (d)---

Hon. Speaker: Hon. Maitha, you wait when the Chair is looking at what you have tabled.

Hon. Maitha: Sorry, I withdraw Madam Speaker.

Hon. Speaker: Hon. Members, I have here an advertisement and it is on the Daily Nation, Wednesday, 22nd November, 2017. The heading is Republic of Kenya in the High Court of Kenya, Kitui. Petition No. 7 of 2017, Counties Development Group is the Petitioner, the first respondent is the Attorney General, the second respondent is the Senate, the third respondent is the National Assembly, the fourth respondent is Kitui Assembly and the fifth to fiftieth respondent is 46 other County Assemblies.

It is headed 'Order' and it is indicated in brackets to have been before Hon. M. N. Mutende, Judge and I am reading it for you Members.

The Notice of Motion application dated 20th November 2017, seeking the following orders:-

1. This application be certified urgent and service hereof be dispensed with in the first instance.
2. That this Hon. Court do issue a conservatory order restraining the fourth to fiftieth respondents and the Members of the County Assemblies from constituting a special college for the appointment of election of Members, delegations and observers to the People's Assembly or in any way participating in the People's Assembly implementing the Motions tabled and moved before the County Assemblies, proposing, ratifying or adopting the recommendations for amending, modifying or in any way changing the constitution without complying with Article 257 of the Constitution pending the hearing and determination of the petition hearing.
3. That the petition be certified urgent and directions given for the expeditious hearing and determination of the petition.
4. That leave be granted to serve the orders hearing and notice of filing the petition by way of substituted service in any of the Daily Newspapers.
5. That cost of this application be provided for.

Having heard counsel for the petitioner applicant and considered the application under Article 123, 159, 160, 165, 255, 256, 257 and 258 of the Constitution of Kenya, it hereby ordered:-

1. The Notice of Motion application dated 20th November 2017 is hereby certified urgent and service thereof dispensed within the first instance.
2. An interim conservatory order be and hereby issued restraining the 4th to 50th respondent and the Members of the County Assemblies from constituting a special college for the appointment of election of Members, delegations and observers to the People's Assembly or in any way participating in the People's Assembly implementing the motions tabled and moved before the County Assemblies, proposing, ratifying or adopting recommendations for amending, modifying or in any way changing the Constitution without complying with Article 257 of the Constitution pending the *inter partes* hearing of the application on 25th January, 2018.

Leave is hereby granted to the petitioner applicant to serve the orders hearing on the respondents and the notice of filing the petition by substituted service in the Daily Nation and the Standard Newspapers dated at Kitui this 20th November, 2017, issued at Kitui this 20th day of 2017.

There is what appears to be a signature of the Deputy Registrar and also what appears to be a seal of the Court. This is what has been tabled before me Hon. Members.

(Applause)

I have read it in full length so that even as you address the issue of that, you are able to address it from a point of information. Hon. Katumo.

Hon. Ngunga: Point of information, Madam Speaker, please.

Hon. Speaker: I want to hear Hon. Katumo, Hon. Francis Ngunga.

Hon. Katumo: Thank you, thank you, Madam Speaker and the Hon. House. I have listened to that piece you are reading, petition and what I have heard, the orders that were sought are for the implementation---

(Applause)

---the forming of the Assemblies. I have not heard anything on debating because it is not possible to stop debating and passing but the implementation of that Act. Thank you, Madam Speaker.

(Applause)

Hon. Ngunga: Additional information, Madam Speaker.

Hon. Speaker: Point of information Hon. Ngunga.

Hon. Ngunga: Madam Speaker, I think it is also important for you as you make your ruling, you had to note that I came to this House here on the 9th November to give Notice of this Motion here and the orders that were sought and obtained were sought on the 20th and obtained then. When I gave this Motion to debate this, these orders were not in place.

(Applause)

So, you will realize that this was already a motion that was properly in place before this House and Madam Speaker, I need your protection.

Hon. Speaker: I have not allowed anybody to speak. Let the person who is on their feet, the Hon. Member, complete.

Hon. Ngunga: Thank you, Madam Speaker for your protection. And ladies and gentlemen let us be patient. This is a debate, this is a contest of brains, it is not a contest of how loud you can shout.

Madam Speaker, I did indicate that this motion found its way here on the 9th of November; I gave that notice. Madam Speaker, listening to what orders were awarded and going by the legal advice that was given by the Assembly which you can obtain by a stroke of your pen, it indicated that nothing in that order has barred this House from debating; from passing that motion, but the moment that you are done with that, then you will be now contravening the law if you start implementing.

(Applause)

Those are two different things. The role of this House is to debate and pass motions. That must be understood Madam Speaker.

Hon. Speaker: Point of information is usually very short not this long.

(Applause)

However, Hon. Majority, you are referring to a legal opinion. Is it before this Hon. House? Can you table the legal opinion?

Hon. Ngunga: Madam Speaker, you know I have served the office of the Clerk with the same. I do not know why they have not been able to bring it before the House here. It is not mine---

Hon. Speaker: Sit down Hon. Majority Leader.

(Laughter)

You do not stand when the Chair is standing.

(Laughter)

I keep on reminding you that very soon I will crack the whip, ok? So, what is going to happen, the Office of the Clerk is here; can it retrieve that legal opinion and bring it here to this House as soon as possible. I will come back to this side Hon. Members, give me some time I also have the Members on this side ventilate. I'll come to you Hon. Minority. Hon. King'ori.

Hon. King'ori: Asante, Madam Speaker. I want to come clear here. Is it this House to interpret the law, the people sitting here are supposed to interpret the law, or is it the court which is supposed to interpret the same? I would like to know whether we are in order to debate something we need clarification from the High Court; to debate it here in the House because if

the order has come from a lower court, it is supposed to go to the Supreme Court which is more informed than the lower one.

I wonder how come this motion has even found itself in this House with orders given by another court somewhere in Kitui which I believe is in Kenya and I know the orders also are given by the High Court of Kenya. I wonder which criteria we used to bring that motion here so that it can be debated.

Hon. Member: Point of order, Madam

Hon. Member: Point of information, Madam Speaker.

Hon. Speaker: Just a moment, Hon. Kiteng'u, no point of order. Let the Member finish. I will listen to you.

Hon. King'ori: Thank you Madam Speaker. I would also want, through the Chair, to clarify whether this House will be led by goons or by law.

(Loud consultations)

Hon. Members: Point of order, Madam. Point of Order, Madam Speaker.

Hon. Speaker: Just sit down. Hon. Members---

(Loud consultations)

Hon. Mitaa: Hon. Speaker, there are no goons in this House.

Hon. Speaker: I will call the Serjeant-at-Arms, Hon. Mitaa, and you will be thrown out. Let us maintain honour of this House. I am on my feet and I am addressing the issue, okay? And trust me to handle it effectively. Hon. King'ori, on your feet.

(Hon. King'ori stood up)

Hon. Speaker: What language did you use?

Hon. King'ori: I withdraw, Madam Speaker.

Hon. Speaker: Can you repeat it? What language did you use?

Hon. King'ori: It was not parliamentary language; I apologize.

Hon. Speaker: I want to hear, what language did you use?

Hon. King'ori: It was not good.

Hon. Speaker: What language did you use?

Hon. King'ori: I said I use a bad language and I apologize.

Hon. Speaker: What bad language did you use? What bad language did you use?

Hon. King'ori: I used a bad language and I withdraw, Madam Speaker.

Hon. Speaker: What bad language did you use?

Hon. King'ori: I can't repeat it, Madam Speaker, because it is wrong.

Hon. Speaker: You can't repeat it? You cannot repeat it?

Hon. King'ori: Because it is wrong.

Hon. Speaker: Because it is wrong?

Hon. King'ori: That is why I am withdrawing.

Hon. Speaker: These are Hon. Members, including yourself. You are calling yourself that name?

Hon. King'ori: I am withdrawing, Madam Speaker.

Hon. Speaker: You are calling the Chair that name?

Hon. King'ori: No, Madam Speaker. I withdraw.

Hon. Speaker: I am going to take up the matter with you later. Please sit down. Sit down!

Hon. King'ori: Thank you, Madam Speaker.

Hon. Speaker: Any other Member wishing to contribute? Hon. Alice.

Hon. (Ms.) Nzioka: Asante Bi. Spika kwa kunipa nafasi.

Hon. Speaker: The mic is appearing not to be operating well.

Hon. (Ms.) Nzioka: Kuna ripoti ambayo imeletwa. Bi. Spika, wakati hiyo ripoti ililetwa katika bunge letu, wewe kama Spika, Spika ambaye tunajua ni Spika ambaye anajua sheria, ulihimiza bunge ukasema kwamba wewe utaenda uchunguze juu ya sheria kama sheria inatukubalisha sisi kama bunge kuongea na kupitisha juu ya bunge la mwananchi. Bi. Spika ukiangalia katika mwongozo wa bunge, fungu la 85, linasema kwamba sisi kama bunge, jambo lolote ambalo liko kwenye korti, hatupaswi kama bunge kuongea. Ni kwa nini Spika tusingee? Sisi kama wabunge tuna mambo matatu ambayo tunapaswa kufanya kama wabunge. Jambo la kwanza ni kuchunguza kazi ambayo inafanywa kaunti yetu kama ina usawa. Jambo la pili ni kutengeza sheria. Jambo la tatu ni uwakilishi katika bunge.

Bi. Spika, sheria ni msumeno mkali; sheria hukata mbele, hukata nyuma. Kama kuna sheria ambayo ilipitishwa na kusemekana kwamba kuna majibu yanangojewa kwenye korti Januari 25, mimi maoni yangu ni kwamba sisi kama waheshimiwa wa bunge la Machakos tunatengeza sheria na huwezi kuwa mtengezaji wa sheria na kuivunja. Tungoje na tusingee kama mswada ambao uko hapa ama ripoti ambayo tunataka kupitisha, kama ina umuhimu kutusaidia sisi kama wabunge, halau, tutaipitisha. Tungoje uamuzi wa korti halafu sisi kama wabunge tutaipitisha.

Tukiendelea kuiongelea ama kuongea na iwe ni lazima tufanye mswada na tutoe maoni yetu, mimi kama mbunge wa hii bunge, sitakuwa sehemu moja katika hiyo ripoti, maana nitakuwa nikivunja sheria---

(Applause)

Sheria hukata mbele na hukata nyuma. Kama tunataka kuwa watengezaji wa sheria ambao wanaweza sikizwa, tuweke sheria. Asante, Bi. Spika.

(Applause)

Hon. Speaker: Hon. Minority Leader, Hon. Kamitu.

Hon. Kamitu: Madam Speaker, I really concur with you that we should do the preliminaries and Madam Speaker my first question in regard to this motion that has been brought into this House is that you gave direction that legal aspect in regard to this motion should be sought before it is debated.

Madam Speaker, the House is very clear, the instructions that you gave that before this motion is debated in this House, a legal proceeding should be brought on the floor of this House,

my question would be, the mover of this motion has not brought the legalities because procedurally, and Madam Speaker I stand to be corrected, the legal proceedings that were sought under your guidance, have they been brought to this House?

Second, legally or procedurally, Madam Speaker, I am also asking, were they after the mover, when looking for the legalities, they were supposed to be brought through the Clerk procedurally to the Speaker then communicated to this House during the communication that on this date, the legalities that were supposed to be guided, that were supposed to be given to this House, are as follows, procedurally in the communication. This has not been adhered to. So, it is an indication that during the preliminaries, those requirements are not there.

Hon. Ngunga: Point of information, Madam Speaker.

Hon. Speaker: Point of information. Resume your seat, Hon. Minority.

Hon. Ngunga: Thank you, Madam Speaker. I wish at this juncture to also inform Minority Leader that when a House, for example, recesses for the purpose of seeking legal opinion, it is not for that particular Member or the mover of the motion to look for that opinion. Here we have departments and the department of the clerks should be able to seek that and I have indicated to you and to the House at large that that has been done and the legal department gave a department that I shared with the Clerk myself and I am still insisting, Madam Speaker, and I think this is very unprocedural, if that legal opinion is not here, then I will say that some areas are also compromised because personally, I have a copy that I will be tabling to this House at a later date because I want to see whether there are double standards here. Thank you, Madam Speaker.

Hon. Speaker: Hon. Majority Leader, I am actually also at a loss. Where is the legal opinion? I have asked for it here because you should be able to table it here on the table---

(Applause)

---because whatever advice I am going to give will also be guided by the legal opinion. Where is it? Can you give us your copy?

Hon. Ngunga: No, if that was the case then Madam Speaker I would have come with my copy but interestingly, the legal officer is actually here in this House and I think I have been able to share that document over and over again and I was imagining that document was going to be tabled by the clerks here. Thank you Madam Speaker.

Hon. Member: Point of information.

Hon. Speaker: Hon. Kamitu is on his feet. Hon. Maitha, what is the information you have?

Hon. Maitha: Madam Speaker, I just wanted to inform the Majority that he cannot get the legal advice from the Clerk of the County Assembly. Rather, he should get it from the Attorney General of the Republic of Kenya who knows more about what we are discussing.

Hon. Speaker: Hon. Kamitu, proceed.

Hon. Kamitu: Thank you Madam Speaker. As I said, my caution would have been that one that the legal aspect that you guided this House, outrightly, in front of this House, there is nothing of that nature. It is my humble request, Madam Speaker, in regard to the preliminary that now that legalities are not here, there is no need of us discussing anything further because sincerely we shall be short of the legalities. Thank you, I stand to be guided, Madam Speaker.

Hon. Speaker: Hon. Nziva.

Hon. (Ms.) Nziva: I stand to ask, because the order before us is restraining the fourth to fifth respondents/Members of County Assemblies from constituting a special college and Members are claiming that we are supposed to pass the motion but not implement on the same. How dare we pass motions here and motions are not implemented? I am aware that if we pass motions here, the motions are supposed to be implemented, so I seek your guidance on the same.

Hon. Speaker: Hon. Johana.

Hon. Munyao: Thank you, Madam Speaker. I wish to inform the Hon. Members that two wrongs will never make a right. If there was an oversight during the House Business discussions regarding the matter before the House, then the issue found its way to this Assembly, then we cannot say simply because we have the issue with us now, it is automatic that we discuss.

Again, even if the legal opinion had been sought from the Attorney General, it should have been presented to the House Business committee to form basis for passing the motion to come to this House. Thank you Madam Speaker.

Hon. Speaker: Hon. Caleb.

Hon. Mule: Thank you Madam Speaker. It is clear that there is a motion discussing People's Assemblies and it is clear that we have a court order refraining us from the same. Madam Speaker, I would request Hon. Ngunga to be prepared next time if he is coming to the House on a serious motion if he wants to be supported.

(Applause)

Let him not say that he has a legal opinion and he has left it in the house. Sorry you are not prepared, maybe later, Madam Speaker. With your direction, you can give him another date. Madam Speaker, again, it is not a matter of urgency in this Assembly that we pass this. We have a court order and there is hearing on the 25th of January. It is not a matter of urgency in this House; we can wait until that time.

(Applause)

However, it is very clear that the court supersedes any other lower court. This is a high court of Kitui and service was done through the public and through the press, so we were served as part of the respondents. Madam Speaker, I beg for you to give a legal opinion on this. Is it in order for us to debate this motion that is in court and we have a court order? Madam Speaker, I would request you not to allow us to debate this motion which we have a court order on the same. Let us be respecters of law---

Hon. Masesi: Point of order, Madam Speaker.

Hon. Mule: Let us respect law.

Hon. Speaker: Point of order from Hon. Cosmus.

Hon. Masesi: Madam Speaker, mine was just to caution the Member on whether he can seek guidance and then again rule on the same matter.

Hon. Speaker: In other words, Hon. Caleb, you have no power to direct the Chair on what to do.

Hon. Mule: Thank you Madam Speaker. Mine was a request that we throw this motion through the window and wait until the right time comes for us to debate this when the court---

Hon. Speaker: There is a point of order, Hon. Caleb. Hon. Museku?

Hon. Museku: Madam Speaker, I am standing on a point of order. First and foremost, Madam Speaker, since yesterday, the Majority Leader has been saying he has given legal advice he was given by the local legal office to the Clerk and I am surprised that up to now, they have not been able to table that legal advice before this House for purposes of guiding Madam Speaker when she is making her decisions.

I reiterate that if a legal opinion was sought from whatever quarters it was sought and presented to the Clerk, then it is the prerogative of the office of the Clerk to present that advice in whichever form it is, here for the legal consideration of Madam Speaker. Madam Speaker, I wish we could be able to get some guidance on that. Thank you Madam Speaker.

(Applause)

Hon. Speaker: I hear you, Hon. Museku.

Hon. Ngunga: Point of information, Madam Speaker.

Hon. Speaker: Point of information.

Hon. Ngunga: It is also important for you, Madam Speaker, as you make your ruling, to also note even with the orders that Hon. Members from the other side seem to be quoting so much, other Hon. Houses, for example the Hon. House of Kwale, have been able to move on with the motions even with those orders in place, because as I put it here---

(Loud consultations)

--- Madam Speaker, protection please. Madam Speaker---

Hon. Speaker: Point of information and if I look up I see you are shouting. I told you I am going to apply the Standing Orders strictly and with no mercy on any of you. We need order in this House like anywhere else where the business of the House is being conducted. Can you continue with your submission?

Hon. Ngunga: Thank you, Madam Speaker for your protection and wise wisdom to our Members here. Madam Speaker, I was saying that as you make your guidance, it is also important to note that the Assembly of Kwale was also able to move and pass the same motion owing to the fact that nothing deters them from debating and passing the motion. Thank you Madam Speaker.

Hon. Speaker: That was a point of information. I am still on this side. I will come back and if need be, I'll go back. Hon. Ndawa.

Hon. Ndawa: Madam Speaker, this matter has taken long and we have other matters which are coming so I believe the only issue that we should talk about is capacity. Do we have the capacity to interpret the court order, and if we have, I think we can be able to move on. The other thing that we may ask ourselves; what is the predicament? If we pass this motion, what will

be the outcome? If we don't pass the motion, what will be the outcome? So that we can weigh both this side and the other side. So Madam Speaker, kindly give us guidance on this.

Hon. Mule: Point of information.

Hon. Speaker: On what the Member has finished?

Hon. Mule: Yes.

Hon. Speaker: He has finished. So, you inform him on what, Hon. Caleb? Hon. Kalumu.

Hon. Kalumu: Madam Speaker, bearing in mind we have a court order from Kitui Court which is in the Republic of Kenya, what is important, you might have a court order restraining you on certain issues but here, what is the issue. The issue is implementation, constituting. Those are the key words which I think the judge used. He did not---

Hon. Maitha: Point of information, Madam Speaker.

Hon. Speaker: I am not going to allow that, Hon. Maitha. Let the Member finish.

Hon. Kalumu: She did not restrain, in any way, debate over this House to debate motions or such matters. Madam Speaker, I stand here to request you to allow this motion to go on. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Kalumu. Any other Member? Hon. Brian Kisila.

Hon. Kisila: Madam Speaker, I would like to first of all caution Members that we need to act with decorum and respect for each other when we are contributing and I stand here to actually remind each one of us that we swore to defend the Constitution of this country and I said sometimes back, in my entire career I have never lifted a Bible and I swore to defend that Constitution. I would like us to be sober enough to look at the legal implication of us discussing something which is already in court and all of us---

(Applause)

---and let us not cheer or clap or anything. Let us be sober. Don't clap for me, I just want us to be sober; let us be sober in the way we are approaching issues and ensure whatever we do as a House, because we are Members of this Assembly, whatever we do is legally binding and within the Constitution of this country which we all swore to defend. Number two Madam Speaker, I would like to also bring to your attention that whatever matters come to this House

need to be fully debated in the House Business committee so that we don't get into this kind of predicament.

If it was fully debated and, as per your instructions, all the legal documents were tabled, I don't think we would be having an issue, but Members, let us be sober enough, we are brothers and sisters; let us do what is legally binding, and what is going to make this House a different House compared to the rest of the Houses is the way we are going to carry ourselves with highest level of decorum, with integrity and the way we swore to defend the Constitution. I was just seeking your indulgence to guide us so that we don't do something which is an illegality by itself and makes us go against the oath which all of us took. Thank you, Madam Speaker.

Hon. Speaker: Hon. Mulatya.

Hon. Mulatya: Madam Speaker, I think we have had enough discussions in the House and as we all know, at the end of discussions and debates in the House Madam Speaker, it is your time to place the question. I seek your guidance on the same.

(Laughter)

Hon. Speaker: Hon. Angela.

Hon. (Ms.) Munyasya: Madam Speaker, I am glad we are all learning. We may not all be able to interpret the law but my understanding of what is before the court is that what is not allowed by the injunction is the constitution of the People's Assembly. That is not what we are doing here. We are only debating like many other county assemblies have done before and after the court order.

What we are doing is we are discussing whether or not; we have not even discussed we are going to pass that the People's Assembly should be constituted, but we are not going to go into the process of constituting the same. On the part of seeking legal advice, Madam Speaker, I remember last time we were here you asked the mover to seek legal advice and that was discussed in two committee meetings of the House Business committee, so it was thoroughly exhausted and the committee was satisfied that the motion should come before the House.

Hon. Kamitu: Point of order.

Hon. Speaker: Point of order from Hon. Minority.

Hon. Kamitu: Madam Speaker, my Hon. Sister is trying to mislead the House because it could not have been passed through the House Business committee because the legal document as stated on this floor was not there. So, how could we have proceeded?

Hon. Speaker: If you have any issue Hon. Majority, please speak it out to the House, don't speak to yourself; so that the House can hear what you have. Hon. Mueni.

Hon. (Ms.) Munyasya: I am not yet done.

Hon. Speaker: You are not done? Okay. Sorry, Hon. Mueni. Finalize, Hon. Angela.

Hon. (Ms.) Munyasya: Sorry, Minority Leader. I didn't say the House Business Committee passed that we should constitute the People's Assembly. It was agreed that according to the legal advice that was delivered, the reason why we have the motion before the House is because everybody up to, and including the legal body of this House was satisfied that it could be discussed in this House. Thank you, Madam Speaker.

Hon. Ngunga: Point of order, Madam Speaker. I think I need to say something, Madam Speaker.

Hon. Speaker: I had asked Hon. Mueni to address the House.

Hon. (Ms.) Mueni: Madam Speaker, I think the House when everybody was coming in had an answer of this motion, so Madam Speaker, I think you are learned. I think---

(Laughter)

Hon. Speaker: Hon. Mueni, you don't think; it is a fact. I am learned.

(Applause)

You say I am learned.

Hon. (Ms.) Mueni: Yes, that is very true. So, what I am requesting is if the motion can be taken back to the House Business committee instead of throwing it through the window and the Members understand that we are not making another assembly outside there. We are the Members of the assembly so don't worry even if it is touching you very much. This is according to the party; as NASA, we have to pass it. Thank you Madam Speaker.

(Applause)

Hon. Speaker: Any other? Point of information? Point of what?

Hon. Ngunga: Information.

Hon. Speaker: To who?

Hon. Ngunga: The House.

Hon. Speaker: No, the Member has finished submitting. You inform the Member when they are on their feet. If you want to contribute on the floor ask to contribute. Hon. Kaloki?

Hon. Kaloki: Thank you, Madam Speaker. I think I just want to say probably two or three things. That one we are a Hon. House and we need to discuss issues honorably without too much emotions. This motion is not a matter of life and death. It is something that we need to look at keenly, digest---

Hon. Speaker: Point of information from Hon. Francis Ngunga.

Hon. Ngunga: I want to inform Hon. Kaloki Ikusya, life depends on where you stand. To me this is my life and death.

(Applause)

To me this is my life and death. Thank you.

Hon. Speaker: We hear you Hon---

Hon. Ngunga: What I meant is that---

Hon. Speaker: Hold on, the Chair is speaking. I was just going to tell Hon. Ngunga his point is taken seriously so can you proceed and know that for him it is a matter of life and death.

(Applause)

Hon. Kaloki: Thank you. What I meant was that when there is such a serious issue where a court order has been served legally, that is what I meant by life and death. There are two issues that had been raised earlier by some of our Hon. Members. One was the issue of whether there was a court order; it has already being produced.

Secondly was the issue of whether the order has been served to Machakos County Assembly and thank you Madam Speaker, for clarifying that there are many ways of serving a court order and one of the means is by way of what we call a substituted service by advertisement. That has also been produced. The other issue was the issue of the legal opinion

that was sought in this House earlier on which has not been tabled before the House so when the Majority Leader or the mover comes to this House and says 'I have sought this opinion, I have discussed with the Clerk of the Assembly, I have done this or that,' I do not think that was quite in order.

What I want to say I want to go straight to the court order. When you talk about 5th to the 50th respondent being restrained in any way from participating in the People's Assembly, implementing the motions tabled and moved before the county assemblies, what are we saying here? It is about the implementation the process of moving motions and discussing motions starts from where we are now. You cannot implement without having discussed and passed.

Hon. Speaker: Point of order Hon. Katumo?

Hon. Katumo: The Hon. Member who has just left, who has just sat down I think he read it properly. He needs to read and digest himself so that he may present and give the impression of what it means. When it says implementation and constitute it is exactly that; it is not debating nor passing. Thank you, Madam Speaker.

(Applause)

Hon. Speaker: Point of information noted carry on Hon. Cosmus.

Hon. Masesi: When you move---

Hon. Speaker: Hon. Titus you are not Hon. Cosmus, isn't it?

Hon. Kaloki: I am Hon. Kaloki.

Hon. Speaker: Kaloki carry on.

Hon. Kaloki: Thank you, Madam Speaker. I just want us to read this order carefully. When you look at---

Hon. Speaker: Point of information from Hon. Helen.

Hon. (Ms.) Ndeti: I am asking whether it is in order if we keep on repeating things that have been said. That order from the Kitui High Court has been read and everybody has digested. We know that the court order ordered people not to implement the people's assembly but we have not being barred from discussing and debating.

Hon. Kaloki: Thank you, Madam Speaker.

Hon. Speaker: Hon. Kaloki carry on.

Hon. Kaloki: I am not repeating and you see our Hon. Members still want us to stick on one issue, implementing. When we talk about adopting, what are we adopting? What will have already been discussed in this House? We will be implementing what has already being discussed in this House so for us to keep, so for us to discuss this motion, it is illegal; it is quite clear from the court order that has been served to all the county assemblies in the entire country by way of advertising.

Lastly, there are several other counties who were stopped or rather stopped discussing this motion as a result of this court order. Thank you very much.

Hon. Speaker: Hon. Irene.

Hon. (Ms.) Mwendé: Thank you, Madam Speaker. I think it is important for you to guide this House on this matter because I am sure we are all looking for legal advice to be advised on this matter. We are not at par on what we really need to discuss about and law is law; we cannot bend it. So, I request you to guide this House on that matter. Thank you.

Hon. Speaker: Hon. Members do we have any other member wanting to say anything before I rule?

Hon. Ngunga: Yes, Madam Speaker.

Hon. Speaker: Yes, Hon. Majority.

Hon. Ngunga: Thank you, Madam Speaker. I just wanted to indicate to the members that I oppose the deliberations of this debate that the orders that were given cannot also be expanded. What members are trying to do here is to expand members to include the debate that we are going to do today in the next five minutes.

Madam Speaker, again I am very frustrated by the office of the Clerk and this I must say with a lot of honesty because I was able to seek a legal opinion, it was brought and in fact Madam Speaker, let me be honest at this juncture, I was able to even share it with you in your office. We shared that document with you; where the document is now, I cannot find it and I am saying even if there are Jubilee moles here, they must also rise above the law---

(Applause)

---because it is being said that it is like I did not seek that legal opinion. I did that one and I was able to share it with you Madam Speaker.

Hon. Speaker: Hon. Majority just a moment on a point of order.

Hon. Maitha: Madam Speaker, I want to inform the member that we are Hon. Jubilee members but not moles. He should also understand---

Hon. Speaker: An apology is given Hon---

Hon. Ngunga: I apologize.

Hon. Maitha: I have not finished. And he should also know that to bring that legal advice, he should not blame the Clerk. Let the opinion be sought from the Attorney General who knows more about law. The Clerk is not a lawyer.

(Applause)

Hon. Speaker: Hon. Members order! Order! Hon. Brian Kisila. Hon. Francis Ngunga continue.

Hon. Ngunga: Madam Speaker, I just want to inform my friend Hon. Moffat Maitha, a mole is a stronger supporter. When you call someone a mole, he is a stronger supporter. If I am called a Jubilee mole it will be derogatory but if you are called a Jubilee mole---

Hon. Speaker: Hon. Francis Ngunga you are even going out of order. You are not a dictionary, are you?

(Laughter)

Let us carry on. If you have finished with your submission, please resume your seat.

Hon. Ngunga: Thank you, Madam Speaker. What I wanted to say Madam Speaker, I just wanted to caution as you make your ruling that I have heard members trying to expand orders so that they include barring this House from doing its duty.

The duty of this House in the first place is to ensure that debate of matters and especially matters from party are taken care of. You are aware Madam Speaker that as a NASA coalition, we have a very pertinent job to do on the 12th of December this year and if we do not carry out this job here Madam Speaker, we will be deemed to be failing in our duty.

(Applause)

So Madam Speaker, it will not be for this House---

Hon. Speaker: Order! Order! Hon. Anastasia, you should not be heard talking unless you have been given permission.

Hon. Ngunga: Madam Speaker, it is---

Hon. Speaker: Just resume your seat and please keep quiet.

Hon. Ngunga: It is my duty Madam Speaker, as the Leader of Majority and the Leader off NASA in this assembly to ensure that the interests of the party are taken care of. It will not be the role of this House, Madam Speaker, to curtail debate. The role of this House will be to enhance debate and we should not be scared of the truth. The truths are that the issues that are in this motion here are in public domain. There is nothing new. Already 11 houses have passed this motion here. The 12th one passed the other day.

I am sure as we are deliberating whether to pass or not, many more houses in this country are passing this motion, Madam Speaker, and so Machakos should not be seen as the only House that is trying to expand orders so that we restrain democracy and Madam Speaker, for the purpose of this House, we are not using our numbers just to pass this motion. In fact we are using our brains more than the numbers. If you listen to the arguments that we are trying to bring to this House here, I am saying and I have indicated to members here I want them to point out one sentence that indicates that debate has been restrained in this debate here and then, Madam Speaker, I will go by your ruling. Thank you, Madam Speaker.

(Applause)

Hon. Speaker: Hon. Members, I am going to give my ruling. I want to refer Hon. Members to the submissions made by members. You noted I rarely write but I was writing because I wanted each member to ventilate their views on the preliminaries and why it is important is because if there is any order of a court or any matter pending in court and it is also being brought in the House, it is important that we do not breach the rule of sub judice so we want to understand where is the position of this order.

Where is the position of this matter? That is why we had to discuss a preliminary. The rule of sub judice allows you to discuss these preliminaries because you are not dealing with the substantive issue that is at hand. That is the first thing.

The second thing I want to let you members know is that this House will never curtail debate. I believe you have noticed that I have been very lenient and allowed as many members as are willing to address the House to do so And it is very important that you ventilate issues as and when they arise.

The other point, Hon. Members, is that there is a legal opinion that has being referred to by the mover of this motion and the legal opinion is said to be in the office of the Clerk; it is also said to have been shared with me. The right place would have been this House to have it here.

(Applause)

I would want to have that legal opinion and I can assure you Hon. Members under order one of the Standing Orders, sub-order one, I am going to give a considered opinion or a considered ruling and this ruling is going to take into account the Constitution of Kenya, it is going to take into account the statute law, it is going to look into the usages, form, precedence, customs, speaker, procedures and traditions of the Assembly and Parliament and other jurisdictions to the extent that they are applicable to the issue we have and I want to assure the mover of this motion that this is going to be done not later than tomorrow because we must put the matter of this motion to rest.

(Applause)

It is not going to go any further than tomorrow and I am going to give the considered ruling at 2.30 p.m. on the sixth day of 6th December, 2017, Wednesday. Hon. Members, it is so ordered.

(Applause)

Hon. Ngunga: Thank you, Madam Speaker. I am most obliged by your guidance. Thank you, Madam Speaker. I am hoping that we shall be moving on. Thank you.

TAPPING WATER FROM YATTA CANAL TO MATUU TREATMENT WORKS

Hon. Speaker: Mr. Clerk, the next notice of motion is by Hon. Judas Ndawa. I believe that the House still has energy to debate this matter and it is the expectation of the mover of this motion that members will remain and as a matter of fact also the expectation of the Chair. Let us hear the mover.

Hon. Ndawa: Thank you, Madam Speaker. I would like to move this motion. Madam Speaker,

THAT aware that the United Nation considers universal access to clean water a basic right and that right is a fundamental human need;

Aware that each person requires at least 20 litres of clean water a day for domestic use;

Cognizant that Article 43 1)(d) of the Constitution states that every person has a right to clean and safe water in adequate quantities and acknowledging THAT the County Government of Machakos proposes to provide water to all households by 2020 and that Matuu ward has been suffering from water shortages;

Noting that Matuu town draws water from Yatta Canal which originates from Thika River and 60 kilometers to Matuu town;

Aware that when there is shortage and the water reduces in the canal, the water does not reach water treatment works leading to shortage of water in Matuu town.

Madam Speaker, I wish to move the motion that the County Government of Machakos taps water from Yatta Canal, Mamba area which is a few kilometers from the main River Thika to Matuu treatment works which is 15 kilometers to Matuu town.

Thank you, Madam Speaker. I call upon Hon. Brian Kisila to second the motion.

Hon. Kisila: Madam Speaker, I stand here to second that motion and I would like to contribute. I am a resident of--

Hon. Speaker: Hon. Kisila you are going to second and then you sit down; I give you time to contribute.

Hon. Kisila: Alright, Madam.

Hon. Speaker: Hon. Members, allow me---

Hon. Speaker: Point of order?

Hon. Ngunga: Madam Speaker, is it in order for a member to second and make his contributions even when he is seconding, Madam Speaker.

Hon. Speaker: I want to propose the question before he contributes.

(Question proposed)

Hon. Kisila.

Hon. Kisila: Thank you, Madam Speaker. I stand here to support this motion on the basis that I happen to know this area and one of the biggest problem we have been having in Matuu town and the reason why Matuu town has not grown of late is a serious shortage of water. In the last three months, water for 20 liter jerrican was going for Kshs. 50 in Matuu.

So, I think it is very important that the County Government urgently looks at how we can help our people in Matuu and this is a very noble idea because if we tap water from the source, our people in Matuu will benefit a lot and this town is going to grow and we will be achieving the dream of enhancing the livelihood of our people. So, Madam Speaker, I fully support this motion.

Hon. Speaker: Thank you, Hon. Kisila. I come to that side; Hon. Kalumu?

Hon. Kalumu: Thank you, Madam Speaker. I happen to be the immediate neighbor of Matuu ward and the so called Yatta canal passes through my ward and sometimes it becomes perennial or seasonal and that makes it unable for people of Matuu to receive water through that canal.

So, I would like to support the motion that the county taps water from Mamba area because it is very close to the main source of the canal because most of the time, Yatta canal is used for horticultural purposes and there is always conflict between the two users because there are those people or residents who want to irrigate their crops and there are those who want to fetch water at the furthest end of Matuu for drinking and sometimes because of the perennial or seasonal state of the canal, it makes it very difficult for water to reach Matuu.

I think that is the reason why the Hon. Member has brought this motion to this House. So, Madam Speaker, I support fully for that to be done and also it will reduce conflict between the farmers and Matuu water users because most of the time they spend a lot of money coming along the canal closing all the pipes which are getting water from the canal to their farms and that will reduce also the budget, the money which is used by the Yatta company to supervise that water to reach Matuu town for treatment. Thank you, Madam Speaker.

Hon. Speaker: Hon. Chair of Chairs, you want the member to remain standing so that you can inform him? He had finished unfortunately.

Hon. Museku: Madam Speaker, I just want---

Hon. Speaker: You can contribute maybe as part of the debate because he had already finished. Hon. Alice and I am coming back to that side.

Hon. (Ms.) Nzioka: Asante, Bi. Spika kwa kunipa nafasi. Nimesimama kuunga mkono mswada ambao umeletwa na mheshimiwa Judas Mbili Ndawa kutoka Matuu. Bi. Spika, kama vile unavyojua, katika katiba yetu ya Kenya kifungu cha arobaini na tatu sehemu ya kwanza imempa kila mwananchi uhuru wa kupata maji, na sio maji tu; maji masafi. Bi. Spika, sehemu kama ya Matuu ni sehemu ambayo ina shida sana ya maji Bi. Spika na umaskini ambao una watu wetu mashinani.

Bi. Spika, utakuta sehemu kama Matuu mama na mtungi anabeba maji na ananunua mtungi wa maji shilingi ishirini. Bi. Spika, umaskini ambao tunao hata itambidi mama asipate pesa ya kununua maji. Bi. Spika, watu wa sehemu ya Matuu wakipata maji wanapata maji sehemu moja ya kunywa na kuna mtaro ambao umetengezwa kwa ajili ya ukulima; sehemu ya Matuu. Watu watapata maji ya kunywa na pia watapata maji ya kukuza kilimo.

Bi. Spika, kuwa hapa bunge kama wabunge ni kuangalia watu wetu mashinani wamehudumiwa na maji; ni sehemu moja ya matakwa ya mwananchi apate maana kama hakuna maji hakuna uhai. Bi. Spika, ndio maana nimesimama kuunnga mkono mswada kwamba watu wa Matuu wapate maji na sio maji tu; maji masafi. Asante.

Hon. Speaker: Hon. Nziva.

Hon. (Ms.) Nziva: Thank you Madam Speaker and Hon. Members present. I stand to support the mover of this motion and applaud him because it has come at the right time. He happens to be my neighbor. My ward neighbors Matuu ward and I am sure if the people of Matuu get clean water because it is a basic necessity, my people will also benefit and most of my people reside in Matuu town so I am in support of it owing to the fact that clean water increases energy and releases fatigue. It also flushes out toxins and also boosts the immune system so I am in support of the motion. Thank you, Madam Speaker.

Hon. Speaker: Hon. Chair of chairs.

Hon. Museku: Thank you, Madam Speaker. First of all, just to continue on the point of information I was trying to give to Hon. Kalumu is that a river which flows throughout the year is called a perennial river and a river which only flows when there are rains is called a seasonal river. I think he meant it is a seasonal river and therefore there is variation in the water which flows and he was referring to it as perennial so I just want to correct that first; English matters.

Madam Speaker, continuing on the other issue of supporting this motion, I would like to support this motion but with some amendments which I would be requesting if it is possible. I do believe that water is life and that water affects each and every human being. Without water, we cannot live. This motion Madam Speaker, seeks to provide water to the people of Matuu from a water source which is more reliable for them to get. I am very sure that in all the other wards we do have similar nightmares whereby we have sources of water which can be able to supply those wards but water is not being tapped from there.

For example from my ward, we have water on the mountains in an area called Kathese dam, another one called Kwa Mbunga dam and all those catchment areas water has not been supplied from them to my people down, so I was wondering whether we could broaden this motion and instead of including Matuu only with specifications from other members, try and make it a little bit universal so that water is provided for all people in all wards from where the sources of the waters have been found within the specific wards.

(Applause)

This, Madam Speaker, would forestall or prevent us having numerous motions here; individual motions like this from each and every of the 40 wards we represent before this House. If we could have one universal one modeled, Madam Speaker, I think it would be for the good of this House. Thank you, Madam Speaker.

Hon. Speaker: Hon. Museku, if I heard you, you are proposing an amendment to the motion. Do you have a seconder? So that we can sort out the issue of the amendment know.

Hon. Museku: Madam Speaker, I would propose that Hon. Kieti, Hon. Member for Lower Kaewa to second this proposal.

Hon. Kieti: Thank you, Madam Speaker. I stand to second the idea of tailoring the motion so that it suits all other wards because in our wards we have water sources which can feed our people.

Hon. Ngunga: Madam Speaker, I rise on a point of order. I think there is a trend---

Hon. Speaker: Just a moment Hon. Majority Leader. Majority Leader, you can proceed.

Hon. Ngunga: Madam Speaker, I am saying that there is a trend that is slowly growing so that members will craft motions and when they come here, every other member would want to have an amendment to these motions here, and I think that it is a dangerous trend that we are having. It is not in order for the Hon. Deputy Speaker, my friend and my neighbor to propose that from his Kathese place to I do not know to wherever he is saying, his people have no water. But this House has not been having business for the last three weeks.

He has not been able to bring in a motion here and this House is not short of paper so that every other time we do not have paper to write motions. Madam Speaker, it will be unfair to shoot Hon. Ndawa's motion down, and he has labored, sought for a seconder and all this, just because of another member who has not found time to craft motions and bring to this House here. So, Madam Speaker---

Hon. Speaker: Hon. Majority you are out of order yourself.

(Applause)

What you needed to do, Hon. Members is, if a member has proposed an amendment and has a seconder, I think the most decent thing to do is we propose the question and then defeat it.

Why don't we do that? Hon. Members, allow me to propose the question. I am waiting for the legal drafter to give me the proposed amendment.

Hon. Members, the amended motion as has been presented to me. I am not going to accept it for the reason that it is impossible to implement, for the reason that it is not clear and that each area does not have that source of water. We are not all equal.

(Applause)

So, we proceed, Hon. Members. Hon. Kieti.

Hon. Kieti: Thank you, Madam Speaker. Although I had supported the amendment, I would like to proceed, but it is true that we have water sources; otherwise we will bring our own motions. Water is life and owing to that fact, we need to provide our people with clean water because when our people have clean water, then we have saved them from diseases like cholera which at the moment is affecting some areas like in the Coast.

So, if we provide clean water to the people of Matuu, where one time I may find myself taking lunch, then I may also enjoy those services. So, Madam Speaker I stand to support the motion that the people of Matuu be provided with clean water for sustainable livelihood. Thank you, Madam Speaker

Hon. Speaker: Hon. Kisini.

Hon. Kisini: Thank you, Madam Speaker. I want to totally and fully support this motion brought by Hon. Judas Ndawa. Matuu town I think is either the second or the third largest town in Machakos, I do not know which is the biggest, but if it has no water it is very bad. So what I want to say is there must have been a feasibility study done and they found that this Mamba area is where they have a big water reservoir, where they might be having a big catchment.

As he has stated, he has said that when the rains are down, the canal dries and they cannot get water fully, so I think it is the work of the County Government to provide service to the people and bearing in mind that Matuu is one of the upcoming towns, they should be provided for that service. The county should go there with all the bulldozers, do that dam and then Hon. Ndawa and the people of Matuu get enough water. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon Kisini. Hon. Minority Leader.

Hon. Kamitu: Thank you, Madam Speaker, once again. I stand to support this motion that has been brought by Hon. Ndawa. Madam Speaker, taking into consideration that Thika River is only 15 km from Matuu town and geographically Thika River has a lot of water, in essence Madam Speaker, this will be a very noble idea and a noble practice that we should draw

water, a canal should be made. Not even that; as the Hon. Member says, we should tap water from Thika River to provide water to Matuu town.

Madam Speaker, you are aware that as Hon Kisini has said, Matuu Town is a growing town; it is the third largest town in Machakos county, so if consideration would be made, it would be very good that Matuu people are provided with water and again Madam Speaker, I would also like to point out that as many speakers have said, water is life and it is on this note on this strength that I would also request Madam Speaker through your guidance, that the committee for Agriculture should take up the issue urgently because and maybe during the supplementary we should look into ways of getting this money so that we finish up this problem of Matuu. Thank you Madam Speaker.

Hon. Speaker: The danger, Hon. Minority Leader, of guiding the Chair is that you guide the Chair to the wrong direction and I will show you shortly why it is the wrong direction. It is not the committee on Agriculture; I will tell you which one it is. Any other contribution on this motion? Hon Kiilu.

Hon. Kiilu: Thank you, Madam Speaker. I stand to support this motion by Hon. Ndawa. Fortunately I am almost a neighbor of Matuu because there is only one ward between me and Matuu, that is Ndalani ward. Actually as my colleague has said, water is life and what is embarrassing about the town of Matuu is that actually Matuu can be termed from my own perspective; I have been a teacher in that area and Matuu serves as the headquarter of Masinga and Matuu, the two sub counties, because the Plan International people who are an NGO, normally when they have a seminar to do on the teachers or the head teachers, they do it in Matuu, the most central place.

I remember one time last year before I resigned in May, they had proposed to make a managerial seminar for us in Matuu and we declined to be housed in Matuu because of the scarcity of that commodity, and we opted to move all the way to Kiambu, a place known as Kolpin at Kilimambogo. What is the implication of that? We denied the people of Matuu wealth. Actually this is an urgent matter and a matter that should be addressed. Actually essentially because even other than the wealth, we know that clean water is good health.

Once you deny these people and as one member has said, sometimes back 20 litre jerrican was costing Ksh. 50 last month and those who could not afford the Kshs. 50 used to draw any water from anywhere which means it was unclean, leading to what? Health hazard. So I am here to fully support the motion and request that Matuu people be supplied with clean water. Thank you, Madam Speaker.

Hon. Speaker: Hon. Members, I now put the question.

(Question put and agreed on)

Hon. Speaker: Hon. Members of this House, having admitted that motion, it is hereby committed to the committee on Environment, Lands, Energy And Natural Resources and I am happy to note that the chairperson is here, Hon. Kisini, and he contributed to the effect that a feasibility study has been done. I believe that it is him who is going to do the feasibility study.

(Applause)

Can we have a report by that committee within 60 days so that it can do a good job? We appreciate the urgency of the matter but we also have to do a good job. The committee on Environment, Land Energy and Natural Resources to table its report on 27th February 2018. It is so ordered.

ADJOURNMENT

Hon. Speaker: Hon. Members, the sitting of this House is now adjourned to 6th December 2017, Wednesday, at 10:00 a.m.

The House rose at 4.46 p.m.