



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)

Misc.Civ. Appli. 613 of 2008

1. **ROGERS NZOKA]**
2. **RICHARD KIOKO]**
3. **DICK KATONA].....APPLICANTS**
4. **DENNIS J. MULLI]**
5. **DANIEL MATI]**

V E R S U S

COMMISSIONER FOR CO-OPERATIVE

DEVELOPMENT AND MARKETING.....RESPONDENT

AND

**IN THE MATTER OF THE CO-OPERATIVE SOCIETIES ACT NO. 12 OF 2007 AND
(AMENDMENTS) 2004.**

R U L I N G

Before me is an application by way of Chamber Summons dated 6th October, 2008, under certificate of urgency. The applicants are named as **ROGERS NZOKA, RICHARD KIOKO, DICK KATONA, DENNIS J. MULLI, and DANIEL MATI**. The respondent is named as the **COMMISSIONER FOR COOPERATIVE DEVELOPMENT AND MARKETING**.

The application seeks for leave to file Judicial Review proceedings for certiorari and prohibition against a decision of the District Co-operative Officer Kangundo, as well as stay of the decision of the said District Co-operative Officer, if leave is granted. The application was filed with a **STATEMENT**, and a **VERIFYING AFFIDAVIT**. The allegation is that the District Co-operative Officer Kangundo, imposed his own people as officials of the Kilalani Farmers Co-operative Society Ltd, in breach of the society's by laws.

Mr. Getange for the applicant addressed me during the hearing of the application. Counsel submitted that the applicants were validly elected as officials of the Co-operative Society on 13/4/2005. However, at a disputed meeting this year, the District Co-operative Officer imposed his own people to be officials of the society, thus illegally removing the applicants. He therefore sought for the orders requested in the application.

I have considered the application, documents filed and submissions of counsel for the applicants. In my view, the applicants have demonstrated a sufficient interest in the subject matter. They have also demonstrated a prima facie arguable case. I will grant leave to file Judicial Review proceedings.

However, I do not think that the applicants have demonstrated that they or the cooperative society will suffer substantial loss, if stay orders are not granted. I will not grant stay orders.

For the above reasons, I order as follows-

- 1. Leave be and is hereby granted to the applicant to file Judicial Review proceedings for certiorari and prohibition. The main motion will be filed within 21 days from today.**
- 2. I decline to grant stay orders.**
- 3. Costs will follow the decision in the main motion.**

Dated and delivered at Nairobi this 15th day of October, 2008.

GEORGE DULU

JUDGE.

In the presence of-

Mr. Getange for applicant