

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT KISII
CIVIL CASE NO.50 OF 2005

1. ATANASI NYANGAU NYAMARI)
2. ZACHARIA ANYONA)
3. ZEPHANIA AYIECHA ONGOTO)
4. JOSIA KEBATI) PLAINTIFFS
5. PETER MACHUKA)
6. DANIEL N. OTIENO)
7. JARED KENNEDY OMBETA)

VERSUS

1. KENYA TEA DEV AGENCY)
2. OGEMO TEA FACTORY CO. LTD) DEFENDANTS

RULING

The applicants application is for an order restraining the Defendants/Respondents from holding an Annual General Meeting of the 1st Defendant/Respondent scheduled for 12th May 2005 until this application is heard and disposed of.

The Respondent were served but did not file replying affidavit.

In his affidavit the applicant states that the respondent have not complied with Tea (Elections) Regulations in calling the scheduled A.G.M. and as such if it takes place it will only be for adoption of Agenda for election. The holding of the A.G.M. is premature and improper.

As I have stated the application is not opposed. There is no affidavit or grounds of opposition filed. In the circumstances I allow the application as prayed.

However there is another issue which arises from the amended Chamber Summons. In prayer (b) it prays for restraining orders “until this application is heard and disposed of.” The court has heard this application today.

This ruling disposes of the application. The allowing of the application is therefore of no much consequence as the orders granted have no life. What prayers is now remaining to be heard is the main suit. The amended application did not pray that orders sought in this application remain in force until the suit is heard. In short the granting of the prayers in the application have no effect in what might happen tomorrow or any other day after today.

Dated 11th May 2005.

KABURU BAUNI

JUDGE

Mr. Soire for Applicant.

N/A for Respondent.

cc. Mobisa