



**Kiumi & another v New Tekangu Farmers Co-Operative Society
Limited & another; Weru (Interested Party) (Judicial Review
E002 of 2025) [2025] KEHC 4308 (KLR) (10 March 2025) (Ruling)**

Neutral citation: [2025] KEHC 4308 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYERI
JUDICIAL REVIEW E002 OF 2025
DKN MAGARE, J
MARCH 10, 2025**

BETWEEN

GERALD KARIUKI KIUMI 1ST APPLICANT

STANLEY NDIRITU KARINGA 2ND APPLICANT

AND

**NEW TEKANGU FARMERS CO-OPERATIVE SOCIETY LIMITED 1ST
RESPONDENT**

**THE SUB-COUNTY CO-OPERATIVE OFFICER MATHIRA
WEST 2ND RESPONDENT**

AND

FREDRICK NDIRANGU WERU INTERESTED PARTY

RULING

1. This is a ruling on whether leave granted herein should act as stay. I agree with the Applicant that they have 6 months to file an application. However animus is seen in the manner in which the Applicant approaches time bound processes.
2. The Applicant had all the time but chose to file the application in the eleventh hour. None can begrudge him. However, that action goes to the root of good faith and laches. None can sleep on their right and then on the eve of an election approach the court.
3. I also note that the crucial documents required in this matter were left out and not filed. I find no reason to have leave operate as stay. In the event, the court finds the decision made to have been a nullity. The same be set aside.



4. In *Macfoy vs. United Africa Co. Ltd* [1961] 3 All E.R. 1169, Lord Denning while delivering the opinion of the Privy Council at page 1172(1) said;

“If an act is void, then it is in law a nullity. It is not only bad, but incurably bad. There is no need for an order of the Court to set it aside. It is automatically null and void without more ado, though it is sometimes convenient to have the Court declare it to be so. And every proceeding which is founded on it is also bad and incurably bad. You cannot put something on nothing and expect it to stay there. It will collapse.”

5. In the circumstances the leave shall not act as stay. Directions on the main application on 14th May, 2025 as earlier ordered.

KIZITO MAGARE

JUDGE

10. 3.25

Mr. Kingori – I seek leave to file 2 documents vide a further affidavit.

Mr. Irungu – I am not objecting.

Mr. Karweru – He can get leave.

Court

Leave granted to the Ex-parte Applicant to file a further affidavit to include 2 documents.

