



REPUBLIC OF KENYA



KENYA LAW
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**Nanga Kihoto Naivasha Ltd v Ngugi; Thuku & others & another (Interested Parties)
(Judicial Review 54 of 2013) [2023] KEHC 2010 (KLR) (16 March 2023) (Ruling)**

Neutral citation: [2023] KEHC 2010 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
JUDICIAL REVIEW 54 OF 2013
HK CHEMITEI, J
MARCH 16, 2023**

BETWEEN

NANGA KIHOTO NAIVASHA LTD EXPARTE APPLICANT

AND

PHARIS MBURU NGUGI RESPONDENT

AND

SAMUEL MWAGANU THUKU & OTHERS INTERESTED PARTY

DANIEL MWANGI KANGETHE & TWO OTHERS INTERESTED PARTY

RULING

1. By their application dated April 7, 2022 the applicants /interested parties pray for the following reliefs;
 - (a) That the election of company directors of Nanga Kihoto (Naivasha)Ltd carried out on the 2.2.2018 were as per the orders of the court and that the directors elected are as per the orders of the court and that the directors elected as per the report filed in court by the appointed presiding officer and they are as follows ;
 - (i) Francis Kariuki Muheria
 - (ii) Robert Magana Muiruri
 - (iii) Gabriel Kaburu Kagunya
 - (iv) Harun Kahiga Gakere
 - (v) Pharis Mburu
 - (iv) Samuel Monyo Njoroge



- (v) Amos Ngugi Njoroge.
- (b) That the Registrar of Companies proceed to effect the necessary returns of directors of the company as per the list of directors shown in (a) above, save for Samuel Monyo Njoroge who has since died and issue the necessary CR12 and or other necessary notifications.
- (c) That all the other pending applications herein are deemed as spent.
- (d) That the new directors be at liberty to move the court for any further orders.
- (e) Costs be in the cause.
2. The application is supported by the affidavit of Gabriel Kaburu Kagunya sworn on even date as well as the grounds thereof.
3. The issues deponed upon are clear and straight forward. The land buying company Nanga Kihoto Naivasha Ltd has been embroiled in leadership wrangles and this court directed on December 20, 2017 that elections be conducted under its supervision. The advocates on record for the parties were also roped in in the said exercise.
4. The elections were conducted on 2.2.2018 and the persons mentioned in the motion were elected save that one Samuel Monyo Njoroge later passed on. There appeared not to have been much contestation and the applicants filed this motion to validate the outcome of the said elections.
5. Rosemarie Wairimu Wanyoike, Nicholas Njoroge Njenga and Danson Karanja Kamau vide their joint replying affidavit sworn on 20th June 2022 opposed the application. Their opposition in my view has to do with the sub division of the parcels of land owned by the company. They are suggesting that the subdivision of the land be done and be overseen by the Naivasha sub county deputy commissioners and secured by the OCS Naivasha police station.
6. They went ahead to deponed that they wished the leadership wrangles to end and that neutral parties be involved in the next cause of the title issuance.
7. The court directed the parties to file written submissions which they complied. This court sees no need of reproducing the same here as they generally dwelt on the issues raised in the affidavits.
8. Taking the totality of the issues raised in the application i do not find that the replying affidavit raises any credible opposition. The court directed the elections to be done which were clearly and successfully done. To date there is no opposition mounted against the elected leaders or directors.
9. Since the issue at hand relates only to the validation of the elections this court does not see the reason why the application cannot be allowed. The issues of how the land shall be sub divided and the issuance of the titles shall be for the parties to deal with in appropriate forum. The issues raised by the respondents can as well be addressed in the said fora's.
10. For now this court hereby finds merits in the application and allows it in terms of prayers (a), (b), (d) and (e). Prayer (c) is however disallowed.

DATED SIGNED AND DELIVERED VIA VIDEO LINK AT NAKURU THIS 16TH DAY OF MARCH 2023.

H. K. CHEMITEI.

JUDGE

