



**East Africa Limited v Kyanzavi Farmers Co Ltd (Civil Suit E213 of 2021)
[2023] KEHC 23194 (KLR) (Commercial and Tax) (6 October 2023) (Ruling)**

Neutral citation: [2023] KEHC 23194 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)
COMMERCIAL AND TAX
CIVIL SUIT E213 OF 2021
FG MUGAMBI, J
OCTOBER 6, 2023**

BETWEEN

EAST AFRICA LIMITED APPLICANT

AND

KYANZAVI FARMERS CO LTD RESPONDENT

RULING

1. Before the court is the application dated April 12, 2021, brought under section 7(1) of the *Arbitration Act* No 4 of 1995 and Order 40 rules 1,2 and 4 of the *Civil Procedure Rules*. The application seeks the referral of the dispute between the parties to arbitration and for interim measures of protection pending the referral of the dispute to arbitration and eventual hearing and determination of the dispute between the plaintiff and the defendant.
2. The parties herein have been in a landlord/tenant relationship at the property known as Agriculture House situate in Land Reference No 209/4285 in Nairobi City, which premises is owned by the defendant. The lease expired and it would also appear that there was a dispute over rent arrears and the renewal of the lease.
3. I have taken note of the submissions filed by the respondent in this matter, dated February 17, 2022. The respondent states that it did instruct a firm of Advocates to pursue rent arrears and auctioneers to levy distress on the applicant. Further, the respondent states that the applicant is no longer a tenant in the said premises. The submissions are uncontroverted by the applicant who I note, filed Further Submissions dated May 12, 2023.
4. It would be distasteful for this Court to make orders in vain. As such, and considering the decision of the Court in *B v Attorney General*, [2004] 1KLR 431, I find that the application dated April 12,



2021 is overtaken by events. It is dismissed. Since the respondents had to defend the application, they are entitled to costs.

DATED, SIGNED AND DELIVERED IN NAIROBI

THIS 6TH DAY OF OCTOBER 2023

F. MUGAMBI

JUDGE

