



Wamalwa t/a Samor Chemist v County Government of Trans Nzoia (Judicial Review Application E010 of 2024) [2024] KEHC 13597 (KLR) (23 October 2024) (Ruling)

Neutral citation: [2024] KEHC 13597 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KITALE
JUDICIAL REVIEW APPLICATION E010 OF 2024
RPV WENDOH, J
OCTOBER 23, 2024**

BETWEEN

**MARTIN WAFULA WAMALWA T/A SAMOR CHEMIST EXPARTE
APPLICANT**

AND

COUNTY GOVERNMENT OF TRANS NZOIA RESPONDENT

RULING

1. This matter came up before me today for taking directions on the Chamber Summons application dated 17/9/2024.
2. The applicant was absent. Counsel for the Respondent raised a preliminary objection opposing the extension of the interim order of stay for reasons that the court ordered the applicant to file the substantive notice of motion within 14 days; that the applicant had not complied with the said order and had filed the substantive motion on 22/10/2024 at 12.45pm which was outside the time allowed; that the applicant had not sought extension of time to file the notice of motion nor had he sought the court's leave to do so. He therefore urged that the notice of motion is incompetent and should be struck out.
3. Computation of time is provided for in Section 57 of the *Interpretation and General Provisions Act* Cap 2 Laws of Kenya. The date on which an event occurs is excluded from computation. If the last day falls on a Sunday or public holiday or a non-working day, the period will be excluded. Section 57 (a) & (b) of Cap 2 provides;
 - a. period of days from the happening of an event or the doing of an act or thing shall be deemed to be exclusive of the day on which the event happens or the act or thing is done;



- b. if the last day of the period is Sunday or a public holiday or all official non-working days (which days are in this section referred to as excluded days), the period shall include the next following day+, not being an excluded day;
4. In this case, J Mrima issued the stay order on 30/9/2024, the said date was excluded from computation. From my computation, the 14th day fell on 22/10/2024 as it excluded the holidays on 10th and 21st October and the weekends of 5th and 6th October and 19th and 20th October. The substantive notice of motion was filed on the 14th day after 30/9/2024. It was still within time allowed by the court and is properly filed. The preliminary objection is unmerited and is hereby dismissed.
5. For the above reasons the interim order of stay is extended and the Respondent has 21 days to file their response to the notice of motion dated 18/10/2024.
6. Mention on 5/12/2024 for directions on the notice of motion. The court's directions be served.

Orders accordingly.

DELIVERED, DATED AND SIGNED AT KITALE THIS 23RD DAY OF OCTOBER, 2024.

R. WENDOH

JUDGE

Ruling No. 1 virtually delivered in the presence of:

Mr Teti for the Respondent

No appearance for Rashid Ngaira & Associates for the Applicant

