



IN THE COURT OF APPEAL

AT NAIROBI

(CORAM: AKIWUMI, TUNOI & SHAH, J.J.A.)

CIVIL APPLICATION NO. NAI. 162 OF 1996 (62/96UR)

BETWEEN

KIHIU MWIRI FARMERS CO. LTD & SIX OTHERS APPLICANTS

AND

BENSON NGUMI JOB & SIX OTHERSRESPONDENTS

(Being an application for a temporary injunction pending Appeal from the Ruling of (Hon. Justice Kuloba) dated 7th May, 1996

in

H.C.C.C. NO, 1043 OF 1996)

RULING OF THE COURT

For an application brought under Rule 5(2)(b) to succeed, the applicant must show that there are arguable grounds to be argued on the appeal and in addition that if the injunction sought is not granted and the appeal succeeds, it would be nugatory. We fear that the applicants have not shown that they have arguable points to argue at the appeal. We say this because it has not been shown that the annual general meeting was wrongly called and wrongly held, or whether there was any existing injunction which had been ignored by the learned judge whose ruling is the subject of the intended appeal. Furthermore, there is no satisfactory evidence that the appeal if successful would be nugatory. It was alleged that the first five respondents are thieves, but there is no evidence at all to support this. Indeed, two of the applicants Nos.3&7 have also from affidavits filed do not support the application. In the result the application will be dismissed with costs to be paid by the 2nd, 4th, 5th and 6th applicants personally. It is so ordered.

Dated and delivered at Nairobi this 22nd day of May, 1996.

A.M. AKIWUMI

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JUDGE OF APPEAL

P.K. TUNOI

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JUDGE OF APPEAL

A.B. SHAH

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JUDGE OF APPEAL

I certify that this is
a true copy of the original.

DEPUTY REGISTRAR