



REPUBLIC OF KENYA



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Mbugua v Komaza Forestry Limited (Under Receivership (Civil Miscellaneous E011 of 2025) [2025] KEHC 14180 (KLR) (Civ) (9 October 2025) (Ruling)

Neutral citation: [2025] KEHC 14180 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYANDARUA
CIVIL
CIVIL MISCELLANEOUS E011 OF 2025
KW KIARIE, J
OCTOBER 9, 2025**

BETWEEN

LAWRENCE WANGAI MBUGUA APPLICANT

AND

KOMAZA FORESTRY LIMITED (UNDER RECEIVERSHIP RESPONDENT

RULING

1. The respondent/applicant herein moved the court through a Notice of Motion dated the 5th day of June 2025. It was brought under Sections 1A, 1B, and 3A of the *Civil Procedure Act*, Order 51 of the Civil Procedure Rules, and Articles 50 & 159(2)(d) & (e) of *the Constitution* of Kenya. The applicant is seeking the following orders:
 - a. Pending the hearing and determination of this application, this Honourable Court be pleased to stay proceedings in Olkalou MCLER/MS NO. 004 of 2025: Lawrence Wangai Mbugua v Komaza Forestry Limited (Under Administration).
 - b. This Honourable Court be pleased to set aside and/or vacate the order dated 25th April, 2025.
 - c. This Honourable Court be granted leave to the Respondent to file its response to the applicant's application dated 25th April, 2025 and other necessary documents out of time.
 - d. This Honourable Court be pleased to issue any such or further orders as it may deem necessary in the interest of justice.
 - e. the costs of this Application be provided for.
2. The application was premised on the following grounds:



- a. The administrator of the respondent herein only became aware of the existence of this application once the Applicant filed its Miscellaneous Application in Olkalou MCLERCMISC No. 004 of 2025 relying on this court's order granted in the interim on 25th April, 2025.
 - b. The administrator was never served with the applicant's application, and as such, it could not enter an appearance and defend the said application.
 - c. The respondent was therefore denied its constitutional right to be heard as enshrined under Article 50 of *the Constitution*, having never been notified of the proceedings and having been denied the opportunity to defend the issues raised by the applicant.
 - d. The court order was therefore materially irregular as it purported to determine the applicant's application in the interim without inviting the respondent to respond to the issues raised by the Applicant.
 - e. The applicant has now relied on this Court's Order to file enforcement proceedings against the respondent Company in Olkalou MCLERCMISC No. 004 of 2025, which undermines the objectives of administration as provided for under Section 522 of the *Insolvency Act*.
 - f. The administrators intend to put in a response to the applicant's application, wherein it will challenge this court's jurisdiction to grant the applicant the order to proceed with enforcement proceedings.
 - g. The respondent maintains that the court that has the jurisdiction to make the order sought by the applicant is the Insolvency Court in HCCOMMIN E144 of 2023: In the matter of Komaza Forestry, which granted the administration order and that has been subsequently extended even as recently as 6th May, 2025.
 - h. This court has the power to review, set aside and/or vacate irregular orders.
3. The application was opposed on the following grounds:
 - a. The respondent/applicant seeks a stay of proceedings in Olkalou CM Misc. Application No. E004 of 2025 pending hearing of the application setting aside the orders dated 25th April, 2025 and leave to file a response to my purported application purportedly dated 25th April, 2025.
 - b. The application before the court is grossly incompetent and for dismissal ex debitojustitiae.
 - c. The application before the court is wholly defective to the extent that it seeks leave to file a response to the application dated 25th April, 2025.
 - d. That the respondent is based and carries out its operation in Olkalou Nyandarua County, and the applicant's workplace with the respondent was in Olkalou Nyandarua County.
 4. On the 25th April, 2025, this matter came before me under a certificate of urgency. I did not grant any prayers except for the leave to commence proceedings. This court was aware that, without leave, the issues raised by the applicant could not be determined. The respondent/applicant was served and had a duty to respond and raise any legal issues.
 5. The leave that was granted did not give the applicant any right except the right to present his case, which ought to be decided on the merits.



6. Contrary to the averment by the respondent/applicant, this court did not extend any order on the 6th May, 2025. The only orders that the court issued were a stay of proceedings in OI Kalou MCELRMISC. No. E004 of 2025, pending the hearing and determination of this application. This was pursuant to an oral application by M/s kale, which Mr. Mwenda did not oppose.
7. This application by the respondent appears misplaced and misinforms about what is on record. The same is dismissed. Costs to abide by the outcome of the substantive application.

DELIVERED AND SIGNED AT NYANDARUA, THIS 9TH DAY OF OCTOBER 2025

KIARIE WAWERU KIARIE

JUDGE

