



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAKURU

CIVIL CASE NUMBER E001 OF 2025

**DAVID M. WANGANGA ----- 1ST
PLAINTIFF/APPLICANT**

**BETHWELL NJOROGE KARANJA ----- 2ND
PLAINTIFF/APPLICANT**

**MARY MWIHAKI KAMAU ----- 3RD
PLAINTIFF/APPLICANT**

VERSUS

**ELIZABETH WANJIKU KIMANI -----
DEFENDANT/RESPONDENT**

RULING

1. By Notice of Motion dated 10/7/2025 the Applicants pray for orders as hereunder;-

1. **Spent**
2. **Spent**
3. **THAT pending the hearing and determination of the Intended Appeal, a temporary injunction do issue restraining the**

respondents by herself, her servants agents, proxies and/or persons exercising authority from the from convening a general meeting of BAHATI WOMEN COMPANY LTD scheduled for 19th July, 2025 and or calling for any other such meeting.

4. THAT the Officer Commanding Division, Njoro Police Station to ensure compliance with the orders of the court.

5. THAT the costs of this application be costs in the cause.

2. The 1st Applicant swore an affidavit in support of the Motion. He avers that they are aggrieved by this court's ruling delivered on 13/6/2025, striking out this suit, and intend to lodge appeal in the Court of Appeal. The Respondent is said to have scheduled a meeting of shareholders of Bahati Women Company Limited for the 19th July 2025 which the Applicants as shareholders as well want postponed. It is contended *inter alia* that the intended Appeal would be rendered nugatory if the planned meeting went on.

3. The Respondent opposes the Application *vide* an affidavit in reply. She holds the position that since the suit had been

struck out there is no platform on which the stay order craved would be founded. According to the Respondent such an injunctive order may only be issued in a suit. An appeal cannot provide a platform on which such an Application can be brought, further states the Respondent.

4. I have perused submissions filed and rival affidavit evidence against the record and the Application before the court. Indeed the court did strike out the suit in its ruling dated 13/6/2025 following the Respondent's preliminary objection. The issue for determination is whether the Application is merited.
5. I agree with the Applicants that striking out of a suit does not bar the relief of stay pending Appeal on the ground that the suit no longer exists. Prohibiting the Respondent from convening a meeting of the company in question would, however, paralyse operations of the company considering that it is unknown how long the litigation in the Court of Appeal will take. The Applicants are at liberty to articulate their interests during any meeting of the company that may be called and so no prejudice will be occasioned to them.

The intended Appeal would not be rendered nugatory in the circumstances.

6. The Application is accordingly dismissed with no orders as to costs.

J. M. NANG'EA - JUDGE.

Ruling delivered virtually this 11th day of February, 2026.

In the presence of:

Mr. Mwangi Advocates for the Applicants.

Mr. Mbugua Advocate for the Respondent.

Court Assistant (Jeniffer).

J. M. NANG'EA - JUDGE.