

**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT OF KENYA**  
**AT NAKURU**  
**ELC MISC NO. E003 OF 2021**

**TIMOI FARMS AND ESTATES  
LIMITED.....APPELLANT/APPLICAN  
T**

**VERSUS**

**JOYCE GATHONI KIARIE** (Administrator of the Estate of  
JOSEPH WANYOIKE KIARIE ( Deceased).....**1<sup>st</sup> RESPONDENT**

**JOHNSTONE KIARIE KAMIRA.....2<sup>ND</sup>  
RESPONDENT**

**LAND REGISTRAR NAKURU.....3<sup>RD</sup>  
RESPONDENT**

**R U L I N G**

1. This is a ruling in respect of the Notice of Motion dated 20<sup>th</sup> March 2026, brought under **Order 45 and Order 50 (6) of the Civil Procedure Rules, Section 1A & B of the Civil Procedure Rules.**
2. It seeks orders;
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  2. That this Honorable Court be pleased to enlarge compliance period for depositing the sum of Kshs500,000/= in a joint interest earning account between counsel on record for the Appellant and the 1<sup>st</sup> Respondent, for another 60 days.

3. That in the alternative to prayer 2 hereinabove, the Appellant be directed to deposit the said sum in court.
4. That costs of this application be in cause.
3. The grounds are in the face of the application and are set out in paragraph a to g.
4. The application is supported by the Affidavit sworn by Isaiah Kiptarus Kimeiywo, a director of the Appellant /Applicant sworn on the 20<sup>th</sup> March 2026.
5. The Application is opposed. There is a Replying Affidavit sworn on behalf of the Respondents.
6. The Notice of Motion was canvassed by oral submissions.
7. I have considered the Notice of Motion, the affidavit in support, the response thereto and the oral submissions. The issue for determination is whether this Application is merited.
8. It is the Appellant's contention that the failure to open a joint interest earning account is beyond its control.
9. I have considered the circumstances herein and the fact that the account was to be opened in the joint names of the two counsel. I have also noted the submissions by the Appellant's counsel on the attempts to open the said account.
10. It appears to the court that the Respondent's counsel has not been keen. Given the time lines set, I hereby allow the Application in the following terms;

**(a) That the sum of Kshs500,000/= being security for costs be deposited in court within twenty-one (21) days from the date of this ruling.**

**(b)That costs of the application be borne by the Appellant.**

**Ruling dated, signed and delivered virtually at Nakuru this 7<sup>th</sup> day of May 2026.**

**L KOMINGOI**

**JUDGE**

**IN PRESENCE OF :-**

Mr. Kairu Maina for the Applicant

Ms. Osebe for Mr Otwere for the 1<sup>st</sup> Respondent

Ms. Cherotich for Mr. Gai for the 2<sup>nd</sup> Respondent

Court Assistant: Derick