



REPUBLIC OF KENYA



KENYA LAW
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**Ngorongo & 5 others v Wangui & 4 others (Civil Application
E478 of 2024) [2025] KECA 899 (KLR) (23 May 2025) (Ruling)**

Neutral citation: [2025] KECA 899 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NAIROBI
CIVIL APPLICATION E478 OF 2024**

W KARANJA, JA

MAY 23, 2025

BETWEEN

HANNAH NJERI NGORONGO 1ST APPLICANT
DAVID IRUNGU NGORONGO 2ND APPLICANT
JOSEPH MAKANGA NGORONGO 3RD APPLICANT
STEPHEN WAGEREKA NGORONGO 4TH APPLICANT
PHILIP WACHIRA NGORONGO 5TH APPLICANT
SAMUEL MWANGI NGORONGO 6TH APPLICANT

AND

DAVID WACHIRA WANGUI 1ST RESPONDENT
JOHN MAKANGA WANGUI 2ND RESPONDENT
FRANCIS MWANGI WANGUI 3RD RESPONDENT
RAPHAEL NGORONGO WANGUI 4TH RESPONDENT
VERONICAH WANJIRU WANGUI 5TH RESPONDENT

(Being an application for extension of time to file and serve the notice of appeal out of time in an intended appeal from the Ruling of the High Court at Nyahururu (C. Kariuki, J.) dated 13th May 2021 in Succ Cause No. 4 of 2017 Formerly NKU Succ. Cause No. 339 of 2007)

RULING

1. On 13th May 2021 the High Court sitting at Nyahururu (Charles Kariuki, J.) revoked the grant of Letters of Administration issued to Hannah Njeri Ngorongo and David Irungu Njoroge, (1st and 2nd



applicants, respectively) on 11th June 2008 and the Certificate of Confirmation issued on 11th May 2007. The applicants were aggrieved by the said orders.

2. They did not file the notice of appeal on time for various reasons, that do not concern me for purposes of this Ruling. Suffice it to say that they filed an omnibus application before the Court of Appeal in Nakuru seeking orders, inter alia, that the Court extends time and validates the notice of appeal which had already been filed out of time and without leave of the court.
3. The Court struck out the application on 10th March 2023 for reasons that the prayer for extension of time under Rule 4 could only be heard by a single Judge and advised the applicants to file an application for extension of time before a single Judge. They did so and the application was heard by Mativo, JA. who dismissed it on 20th June 2023 expressing himself in part as follows:-

“I find and hold that the orders sought by the applicants for extension of time can only be granted where the court has jurisdiction to grant the orders sought. The law does not allow me to grant orders where I do not have jurisdiction.”

4. The applicants have come back to Court seeking the same order Judge Mativo declined to grant. This, in my view, is abuse of the court process. If the parties were aggrieved by the Ruling by Mativo, JA, the applicants should have moved the Court by way of reference to full court pursuant to Rule 57 of the Court of Appeal Rules and not refile the same application for hearing before a different single Judge. The application before me is completely devoid of merit and I dismiss it with costs to the respondents.

DATED AND DELIVERED AT NAIROBI THIS 23RD DAY OF MAY 2025.

W. KARANJA

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JUDGE OF APPEAL

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

Signed

DEPUTY REGISTRAR.

