



REPUBLIC OF KENYA



Hangzhou Agrochemical Industries EA Limited v Panda Flowers Limited (Civil Application E048 of 2025) [2025] KECA 1174 (KLR) (30 June 2025) (Ruling)

Neutral citation: [2025] KECA 1174 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NAKURU
CIVIL APPLICATION E048 OF 2025
JM MATIVO, JA
JUNE 30, 2025**

BETWEEN

HANGZHOU AGROCHEMICAL INDUSTRIES EA LIMITED APPLICANT

AND

PANDA FLOWERS LIMITED RESPONDENT

(An application for leave to file an appeal out of time from the Judgment and Decree of the High Court at Naivasha (R. Mwongo, J.) dated 24th May, 2021 in Civil Suit No. 4 of 2017.)

RULING

1. *Vide* application dated 17th August 2021, brought under rules 4 and 82 (1) of the [Court of Appeal Rules](#), section 3A and 38 of the [Appellate Jurisdiction Act](#), Order 51 Rule 1 of the [Civil Procedure Rules, 2010](#), sections 1A and 1B of the [Civil Procedure Act](#) and article 159 (2) of the [Constitution](#), the applicant prays for leave to file record of appeal out of time and/or allow extension of time to file an appeal against the Judgment and Decree delivered on 10th April 2019 by Mwongo, J. dated 24th May 2021 in Naivasha High Court Civil Case No. 4 of 2017.
2. The application is premised on the grounds listed on its face and the supporting affidavit sworn on 17th August 2021 by the applicant's advocate Mr. Owino Opiyo. The grounds in support of the application are that:
 - (a) both parties were dissatisfied by the impugned Judgment and filed notices of appeal;
 - (b) the applicant's notice of appeal is dated 24th May 2021 and it requested for proceedings vide letter dated 24th May 2021;
 - (b) the certified copies of the typed proceedings were supplied on 10th August 2021 after lapse of the 60 days provided under this Court's rules;



- c) the intended appeal is arguable and it has high chances of success;
 - (d) the delay in filing the record of appeal is not intentional and the same has been explained;
 - (e) the application has been brought expeditiously and without unreasonable delay and it is in the interest of justice for the same to be allowed; (f) no prejudice will be suffered by the respondent since it has also expressed its desire to appeal.
3. On 25th June 2025 at 15.32 pm the Deputy Registrar of this Court sent out a hearing notice via e-mail informing counsel/the parties herein that the instant application would be heard by way of written submissions and there shall be no appearance of counsel in Court or via video link. In that regard, the applicant and the respondent were reminded to comply with the Court's directions relating to service and filing of submissions before the hearing date.
 4. Today, 30th June 2025 at 9.00 am when the application came up for hearing before me, and as at the time of writing this ruling, none of the parties had complied with the Court's directions. The directions were communicated to the parties respective e-mails: Aminga<h.aminga@yahoo.com>, "gachiengod@yahoo.com" <gachiengod@yahoo.com>
 5. Rule 58 of the *Court of Appeal Rules, 2022* stipulates as follows:
 1. If, on any day fixed for the hearing of an application, the applicant does not appear or comply with directions, the application may be dismissed, unless the Court sees fit to adjourn the hearing; Provided that the Court may order that an application may be heard by way of written submissions and where parties have filed written submissions, the Court shall consider the submissions.
 5. Pursuant to the above rule, and being duly satisfied that the parties were duly served as herein above stated, and despite being served, they have failed to comply with the Court's directions, I hereby dismiss the instant application in accordance with Rule 58 (1) of this Court for non-compliance with the directions of the Court issued on 25th June 2025.
 7. Orders accordingly.

DATED AND DELIVERED AT NAKURU THIS 30TH DAY OF JUNE, 2025.

J. MATIVO

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JUDGE OF APPEAL

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

Signed.

DEPUTY REGISTRAR

