



Gendron (Representing Hislaine Therese Gontier as Guardian Ad Litem) v Miradi Ujenzi Consultancy Limited (Civil Appeal (Application) E075 of 2025) [2025] KECA 1340 (KLR) (16 July 2025) (Ruling)

Neutral citation: [2025] KECA 1340 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT KISUMU
CIVIL APPEAL (APPLICATION) E075 OF 2025
LK KIMARU, JA
JULY 16, 2025**

BETWEEN

**FERNAND LOIS LEWYN GENDRON APPLICANT
REPRESENTING HISLAINE THERESE GONTIER AS GUARDIAN AD LITEM**

AND

MIRADI UJENZI CONSULTANCY LIMITED RESPONDENT

(Being an application for the question of urgency from the Ruling of the High Court of Kenya at Nyamira (W.A. Okwany, J) dated 6th February, 2025 in HCCC No. E002 of 2024)

RULING

1. This application came up for hearing today, Mr. Lagat for the applicant challenges this Court's decision when it declined to certify the application that the applicant had filed seeking, *inter alia*, to stay proceedings before the trial court pending the hearing and determination of the intended appeal.
2. The applicant was aggrieved by an interlocutory Ruling made by the trial court whose effect was to grant leave to the applicant to file her defence and further secure the sum which the court had earlier issued a garnishee order pending the hearing of the suit on its merits.
3. This Court, upon assessing the facts of this application challenging its decision to decline to certify the application urgent, and the applicable law, is not persuaded by the reasons advanced by the applicant to vary the initial order it had issued that the application ought not to be certified urgent.
4. The application is not certified urgent for the following reasons;
 1. This is an interlocutory appeal where the merits of the substance of the dispute before the trial court has not been determined.



2. The trial court has fast-tracked the hearing of the case on merits in view of the incapacity of the applicant.
3. The issues that the applicant desires a second opinion from this Court can still be ventilated in the full hearing and ultimately, if the decision goes against her, she shall be at liberty to pursue the appeal before this Court.
4. No cogent reasons have been advanced by the applicant to persuade this Court to divert from its initial decision that this application is not urgent and should be listed for hearing in the normal cause.
5. None of the parties in the dispute has suffered any prejudice that requires intervention of this Court since the subject matter of the dispute has been preserved.
6. There shall be no orders as to costs.

DATED AND DELIVERED AT KISUMU THIS 16TH DAY OF JULY, 2025.

L. KIMARU

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JUDGE OF APPEAL

I certify that this is a true copy of original.

Signed

DEPUTY REGISTRAR.

