



Gedi v Njau & 2 others; United States of America Embassy in Kenya & 3 others (Interested Parties) (Civil Application E264 of 2022) [2022] KECA 806 (KLR) (29 July 2022) (Ruling)

Neutral citation: [2022] KECA 806 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NAIROBI
CIVIL APPLICATION E264 OF 2022
M NGUGI, LK KIMARU & JM MATIVO, JJA
JULY 29, 2022**

BETWEEN

MOHAMMED SUBY GEDI APPLICANT

AND

NICHOLAS WAITITU NJAU 1ST RESPONDENT

INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION 2ND RESPONDENT

ATTORNEY GENERAL 3RD RESPONDENT

AND

UNITED STATES OF AMERICA EMBASSY IN KENYA ... INTERESTED PARTY

PRINCIPAL SECRETARY STATE DEPARTMENT OF IMMIGRATION INTERESTED PARTY

DIRECTOR OF CRIMINAL INVESTIGATION INTERESTED PARTY

ETHIC AND ANTICORRUPTION COMMISSION INTERESTED PARTY

(Being an application for stay of execution of the judgment of the High Court of Kenya at Garissa, (Ali-Aroni J.) dated 21st July, 2022 pending the hearing and determination of the intended appeal in Constitutional Petition No. 10B of 2022)

RULING

1. We have considered the application brought under Rule 5(2) (b) of the Rules of this Court and the submissions in support by learned Counsel for the appellant, Mr. Githinji Mwangi; the submissions in support by learned Counsel, Mr. Mohad Somane appearing with Mr. Hassan Nur for the 2nd respondent; and submissions in opposition by Ms. Majune, learned Counsel for the 1st respondent.



Counsel for the 3rd respondent, Mr. Weche, intimated to the court that the 3rd respondent wished to take a neutral position on the matter.

2. Having considered the rival submissions by the parties, it is our decision that the applicant has satisfied the Court that he has an arguable appeal, and that the appeal will be rendered nugatory if the orders sought are not granted. We accordingly allow the application dated 27th July, 2022 in terms of prayer 3 of the said application. The costs thereof shall be in the appeal.
3. The reasons for this decision shall be given on 5th August, 2022.

DATED AND DELIVERED AT NAIROBI THIS 29TH DAY OF JULY, 2022

MUMBI NGUGI

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JUDGE OF APPEAL

LUKA KIMARU

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JUDGE OF APPEAL

J. M. MATIVO

.....

JUDGE OF APPEAL

I certify that this is a true copy of the original

DEPUTY REGISTRAR

