



**Kaaga Farmers Cooperative Society v Commissioner of Cooperatives  
& another; Gatua & 3 others (Interested Parties) (Civil Application  
17 of 2016) [2022] KECA 1212 (KLR) (4 November 2022) (Ruling)**

Neutral citation: [2022] KECA 1212 (KLR)

**REPUBLIC OF KENYA  
IN THE COURT OF APPEAL AT NAIROBI  
CIVIL APPLICATION 17 OF 2016  
HA OMONDI, KI LAIBUTA & PM GACHOKA, JJA  
NOVEMBER 4, 2022**

**BETWEEN**

**KAAGA FARMERS COOPERATIVE SOCIETY ..... APPLICANT**

**AND**

**THE COMMISSIONER OF COOPERATIVES ..... 1<sup>ST</sup> RESPONDENT**

**INDUSTRIALIZATION AND CO-OPERATIVE DEVELOPMENT .... 2<sup>ND</sup>  
RESPONDENT**

**AND**

**DANIEL GITHIORA GATUA ..... INTERESTED PARTY**

**GRACE WANGUI MWAURA ..... INTERESTED PARTY**

**FRANCIS GATHU NGURE ..... INTERESTED PARTY**

**DANIEL MUTHEE MWANGI ..... INTERESTED PARTY**

*(Being an application for injunction against the intended liquidation  
from the High Court of Kenya at Nairobi (G.V. Odunga, J.) dated  
4<sup>th</sup> December 2015 in Miscellaneous Application JR NO. 68 of 2015)*

**RULING**

1. The notice of motion dated January 21, 2016 is made pursuant to rules 5 and 42 of the [Court of Appeal Rules](#), seeking: an order of injunction to issue, and directed to the 1<sup>st</sup> respondent, barring him/her from commencing, undertaking, or in any way proceeding with, the intended liquidation of the applicant herein ostensibly as intimated in the Gazette Notice published on September 5, 2015; and.



in the alternative, an order of stay of execution of the Co-operative Tribunal orders dated March 14, 2014 given in Co-operative Tribunal Case No 234 of 2011 do issue.

2. The background to this matter is that the Commissioner of Co-operatives, by Kenya Gazette Notice of September 5, 2014, made a decision to dissolve the applicant society and place it on liquidation. This decision was challenged in the High Court in Judicial Review Application No 68 of 2015 through a notice of motion dated March 31, 2015.
3. On December 4, 2015, Odunga, J rendered a decision dismissing the prayers sought by the applicant. Aggrieved by the outcome, the applicant lodged the appeal herein, and also filed the notice of motion coming for hearing before us.
4. When the matter was called out this morning, learned counsel Mr Kariuki was present for the 1<sup>st</sup> respondent and learned Counsel Mr Kaburu was present for the 2<sup>nd</sup> respondent. The applicant, though duly served as confirmed by the hearing notice availed to us, was not present.
5. Mr Kariuki informed the court that the applicant society has already been placed under receivership, and that this might explain the nonattendance of the applicants. Mr Kaburu concurred with the sentiments. The applicant, not being present to confirm the state of affairs, then the only natural consequence is to dismiss the application dated January 21, 2016 for non- appearance with cost. Orders accordingly.

**DATED AND DELIVERED AT NAIROBI, THIS 4<sup>TH</sup> DAY OF NOVEMBER, 2022.**

**H. A. OMONDI**

.....  
**JUDGE OF APPEAL**

**DR. K. I. LAIBUTA**

.....  
**JUDGE OF APPEAL**

.....  
**M. GACHOKA – CI Arb, FCIARB**

.....  
**JUDGE OF APPEAL**

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

*Signed*

**DEPUTY REGISTRAR**

