



**Valley Land Shelters & Tours Ltd & 2 others v Flora Tech Limited (Miscellaneous Application E1105 of 2024) [2025] KEHC 3950 (KLR) (Civ) (27 February 2025) (Ruling)**

Neutral citation: [2025] KEHC 3950 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)  
CIVIL  
MISCELLANEOUS APPLICATION E1105 OF 2024  
SN MUTUKU, J  
FEBRUARY 27, 2025**

**BETWEEN**

**VALLEY LAND SHELTERS & TOURS LTD ..... 1<sup>ST</sup> APPELLANT  
FREDERICK MURIITHI KIURA ..... 2<sup>ND</sup> APPELLANT  
KENNETH MBURU MUNGAI ..... 3<sup>RD</sup> APPELLANT**

**AND**

**FLORA TECH LIMITED ..... RESPONDENT**

**RULING**

1. The Applicants have brought this Application, Notice of Motion, dated 4<sup>th</sup> December 2024 seeking orders to stay the judgment in Milimani Small Claims Court No. E389 of 2022 pending the hearing and determination of this Application and the Appeal. They are also seeking leave to file an appeal against that judgment out of time.
2. Both counsel for the Applicants and counsel for the Respondent chose to rely on the grounds found on the Application and the Supporting Affidavit and the Replying Affidavit, respectively.
3. The Application is anchored on the provisions of the law shown on the face of the Application and supported by grounds in the Supporting Affidavit and on the body of the Application. The main reason advanced for the delay in filing the appeal within time was the delay by the 1<sup>st</sup> Applicant's Management to issue instructions to initiate the appeal. The Applicants have stated that they have an arguable appeal which may be rendered nugatory should the orders sought not be granted.
4. Interim stay was granted on 5<sup>th</sup> December 2024 on condition that the Applicants deposit into court Kshs 300,000 by the close of business on 4<sup>th</sup> January 2025. That order of the Court has not been complied with. The effect of the failure to comply with the condition for granting of the interim stay



of execution means that there is no order for stay in force. Counsel for the Applicant, Mr. Mwangi is aware of the implications of failure by his client to comply with the conditions set by the Court.

5. The Application is opposed through a Replying Affidavit sworn by Morris Maina, a Legal Officer with First Assurance Limited, the insurer, on 18.2.2025. He has deposed that the Appeal does not raise arguable issues and is therefore incapable of being rendered nugatory. He has also deposed that the Applicants have not demonstrated sufficient cause for the delay in delaying filing the appeal within time.
6. I have considered this application. The Applicants are exposed because they do not have an order for stay of the execution. They have failed to comply with court orders issued on 5/12/2024 and do not seem keen to make efforts towards complying with those orders.
7. My considered view is that the Applicants, after failing to comply with the order for stay and failure to demonstrate any efforts on their side to provide security in this matter, should not benefit from an order of this court staying execution pending the appeal. I will, however, grant them leave to file the appeal out of time. Should they find it prudent to provide security, they will be at liberty to approach the Respondent and negotiate the issue of stay and inform the court accordingly.
8. The Record of Appeal shall be filed and served on the Respondent within 30 days from today's date.
9. This file, being a miscellaneous file, is hereby closed.
10. Orders shall be issued accordingly.

**DATED, SIGNED AND DELIVERED THIS 27<sup>TH</sup> FEBRUARY 2025.**

**S. N. MUTUKU**

**JDUGE**

