



**Mandu, Chairman Mumias Cane Farmers Co-operative Union v Washiali & another
(Civil Appeal E056 of 2024) [2024] KEHC 8393 (KLR) (27 June 2024) (Ruling)**

Neutral citation: [2024] KEHC 8393 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAKAMEGA
CIVIL APPEAL E056 OF 2024**

**AC BETT, J
JUNE 27, 2024**

BETWEEN

**MR ALLOYS MANDU, CHAIRMAN MUMIAS CANE FARMERS CO-
OPERATIVE UNION APPELLANT**

AND

WASHINGTON SILVANUS WASHIALI 1ST RESPONDENT

MUMIAS CANE FARMERS CO-OPERATIVE UNION 2ND RESPONDENT

*(Being an Appeal from the Ruling of Honourable B. Kimemiah, Hon. B. Sawe,
Hon. F. Lotuiya, Hon. P. Gichuki and Hon. Chesikaw delivered on 7.3.2024
at Nairobi vide Kakamega Co-operative Tribunal Case No. 12B of 2018)*

RULING

1. On 3rd April, 2024, the Court gave orders to the parties herein with the view to fast tracking the hearing and determination of the Appeal. The Court directed the Appellant to file and serve Record of Appeal and Submissions within forty five (45) days to enable the Respondents file and serve Submissions within fifteen (15) days after service.
2. The matter was then fixed for Mention for compliance today. More than sixty (60) days have lapsed since the Court issued orders that are yet to be complied with.
3. Ms. Rauto for the Appellant has requested for more time to comply. She says the Tribunal did not furnish them with proceedings. The 1st Respondent opposes the application for extension of time. He says he has suffered by the delay which cannot be explained by the Appellant. The Appellant has not produced anything to show that they have been in active pursuit of the proceedings. Ms. Rauto has been aware that she had limited time within which to file the Record of Appeal. She has failed to do so and has not tendered sufficient reasons for failure.



4. Although this Court has discretion to extend time, the discretion is to be exercised judiciously. The sword of justice cuts both ways. The 1st Respondent is also entitled to a fair hearing and to delay him on account of failure by the Appellant to comply with court orders would do injustice to him.
5. I therefore disallow the application for extension of time and I strike out the Record of Appeal and dismiss the Appeal as directed by Hon. Justice P. J. O. Otieno in his Order dated 3rd April, 2024.
6. Appellant granted stay of fourteen (14) days.

DATED, SIGNED AND DELIVERED AT KAKAMEGA THIS 27TH DAY OF JUNE, 2024.

A. BETT

JUDGE

In the presence of:

Ms. Rauto for the Appellant

1st Respondent present in person

Court Assistant: Polycap

