



China Communication Construction Company v Tano & another (Environment & Land Case 008 of 2023) [2023] KEELC 17380 (KLR) (15 May 2023) (Ruling)

Neutral citation: [2023] KEELC 17380 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT ISIOLO
ENVIRONMENT & LAND CASE 008 OF 2023
PM NJOROGE, J
MAY 15, 2023**

BETWEEN

CHINA COMMUNICATION CONSTRUCTION COMPANY PLAINTIFF

AND

DAUD TANO 1ST DEFENDANT

HUSSEIN ABDI 2ND DEFENDANT

RULING

1. This application is dated May 4, 2023 and seeks the following orders;-
 - a. That this application be certified urgent and be heard *ex-parte* in the first instance.
 - b. That this Honourable Court does order a stay of execution of the Ruling and Order of the Chief Magistrate Honourable L Mutai delivered on April 25, 2023 fining Wang Lening, Huang Min, Michael Obop and all the directors of the respondent jointly and severally in the sum of Kshs 600,000 and in default each to serve 6 months imprisonment in Isiolo CMELC No E004 OF 2023, Hussien Abdi & Anor vs China Communication Construction Company and subsequent orders pending the inter parties hearing of this application.
 - c. That this Honourable Court does order a stay of execution of the ruling and order of the Chief Magistrate Honourable L Mutai delivered on May 25, 2023 fining Wang Lening, Huang Min, Michael Obop and all the directors of the respondent jointly and severally in the sum of Kshs 600,00 in default of each to serve 6 months imprisonment in Isiolo CMELC No E004 of 2023, Hussein Abdi & Anor vs China Communication Construction Company and subsequent orders pending the hearing and determination of the Appellant's Appeal.
 - d. That the Honourable Court be pleased to issue such further orders as it may deem fit in the interests of justice.



- e. That the costs of this application be provided for.
2. During the date slated for inter parties hearing on 15/5/2023, the respondents' advocate asked the court to give him 7 days so that he could respond to the application. The applicant's advocate asked the court in the interim to stay the execution of the order of the Chief Magistrate which ordered Mr Waug Lening, Huang Min, Michael Obop and all directions of China Communications Construction Company jointly and severally to pay the sum of Kshs 600,000/= and in default to serve a term of 6 months imprisonment.
 3. In the interest of Justice, and as the freedom of some residents is threatened, it is ordered as follows;
 - a. Conditional stay of execution of the order of the Chief Magistrate issued in Isiolo CMELC E004 of 2023 on April 25, 2023 is Granted provided that the parties affected by the orders do pay to court as security a sum of Kshs 900,000/= within 14 days of today Failing which the stay grant herein shall automatically lapse.
 - b. The 1st and 2nd respondents are granted 7 days to file and serve their response or responses to the application.
 - c. This matter will be mentioned on June 6, 2023.

DELIVERED IN OPEN COURT AT ISIOLO THIS 15TH DAY OF MAY, 2023 IN THE PRESENCE OF; -

Court assistant: Balozi & Rahma

HON. JUSTICE P.M NJOROGE

JUDGE

