



REPUBLIC OF KENYA



KENYA LAW
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**In re Estate of Katimba Imbiakha (Deceased) (Succession Cause
749 of 2007) [2022] KEHC 13448 (KLR) (23 September 2022) (Ruling)**

Neutral citation: [2022] KEHC 13448 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAKAMEGA
SUCCESSION CAUSE 749 OF 2007
WM MUSYOKA, J
SEPTEMBER 23, 2022**

RULING

1. The application for determination is dated October 23, 2020. It is brought at the instance of Musa Imbiakha Katimba. He seeks stay of execution of orders that were made herein on October 2, 2020. He avers that he was aggrieved by those orders, as they related to cancellation of titles issued during the lifetime of the deceased, and he feared that implementation or execution of the orders could occasion loss to him. He avers that he has filed a notice of appeal, as he intended to move the Court of Appeal appropriately.
2. The application is opposed by Belia Khayanga Imbiakha. She argues that the applicant has not demonstrated the loss that he was likely to suffer. She further states that the applicant has not demonstrated what ought to be stayed.
3. I delivered a ruling herein on October 2, 2020, where I ordered cancellation of the subdivisions of South Kabras/Chesero/xxx and xxxx, and reversion of the property to the name of the deceased herein, to facilitate enforcement of the consent orders of November 27, 2008. These are the orders that the applicant is aggrieved about. I see that he lodged a notice of appeal herein on October 7, 2020, bearing the same date. He also lodged a request herein on October 30, 2020 for typed and certified copies of the proceedings, and the proceedings have since been typed.
4. The applicant has, no doubt, taken the preliminary steps towards lodging appeal. I note too that he moved fairly quickly after the impugned orders were made, to file notice of appeal, to file the instant application, and to request for typed and certified copies of the proceedings. He is, no doubt, serious and keen on appealing. He is entitled to his day at the Court of Appeal, for a second opinion on the matters in controversy. It is logical that the subject matter be preserved pending appeal. Consequently, I shall grant the orders sought in the application dated October 23, 2020.

**DELIVERED, DATED AND SIGNED IN OPEN COURT AT KAKAMEGA ON THIS 23RD DAY
OF SEPTEMBER 2022**

WM MUSYOKA



JUDGE

Erick Zalo, Court Assistant

Mr. Manyoni, instructed by Momanyi Manyoni & Company, Advocates for the applicant.

Mr. Ondieki, instructed by Gichaba Ondieki & Company, Advocates for the respondent.

