

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT SIAYA

MISC. CIVIL APPLICATION NO. E009 OF 2021

ORIGINATING FROM

KAKAMEGA MISC. CIVIL APPLICATION NO.E062 OF 2021

STEPHEN WESONGA MAKOKHA.....1ST APPLICANT

MOSES ADEPA.....2ND APPLICANT

VERSUS

IGNATIUS OPEMA MALIBA (*as the Legal and Personal Representative*

of the estate ofANTONY GISIYE-DECEASED.....RESPONDENT

RULING

1. I have considered the application dated 25/3/2021 under Certificate of Urgency.
2. I grant leave to the Applicants to be heard during the recess. I further certify the application as urgent for consideration *exparte* in the first instance.
3. On the prayer for interim stay of execution, I observe that the temporary stay granted by the trial court lapsed on 29/3/2021 hence the execution process is due.
4. The Applicants seek for leave to appeal out of time and for stay of execution of decree pending the lodging, hearing and determination of the intended appeal.
5. So as not to lock the applicants out of the judgment seat should they justify the delay in filing the appeal, I hereby exercise discretion and grant the applicants stay of execution of decree in Mumias PMCC No. 188/2016 pending *interpartes* hearing of the application dated 25/3/2021.
6. The Applicants' counsel to serve the Respondent's counsel forthwith for *interpartes* hearing before the High Court at Kakamega on 13/4/2021.
7. This file is closed and proceedings and this ruling to be certified and send to the Deputy Registrar Kakamega High Court forthwith.
8. Orders accordingly.

DATED, SIGNED AND DELIVERED AT SIAYA, THIS 30TH DAY OF MARCH 2021

R.E. ABURILI

JUDGE