



**Eastern Produce Kenya Limited v Chief Land Registrar & another;
County Government of Nandi (Interested Party) (Environment and Land
Appeal 2 of 2023) [2023] KEELC 18007 (KLR) (12 June 2023) (Ruling)**

Neutral citation: [2023] KEELC 18007 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAPSABET
ENVIRONMENT AND LAND APPEAL 2 OF 2023
MN MWANYALE, J
JUNE 12, 2023
(FORMERLY ELD ELC E008 OF 2023)**

BETWEEN

EASTERN PRODUCE KENYA LIMITED APPLICANT

AND

CHIEF LAND REGISTRAR 1ST RESPONDENT

KIMASAS FARMERS CO-OPERATIVE SOCIETY 2ND RESPONDENT

AND

COUNTY GOVERNMENT OF NANDI INTERESTED PARTY

RULING

1. This Ruling is not in relation to the substantive ruling on the application dated May 26, 2023 which was reserved for delivery on July 31, 2023 or earlier by Notice; but the court found it necessary to deliver the same.
2. On 9/5/2023 when at the *ex parte* stage, Mr. Gachuhi, for the Applicants sought for temporarily stay of execution orders, and on 31/5/2023, Dr. Ojiambo Senior Counsel for the applicants equally sought for a Stay of Execution Orders Ante, on both occasions the court declined to issue the orders, since the issue of whether or not there is an appeal before court has not been determined.
3. The said position taken by the court was informed by the Supreme Court decision in the case of [*Dr. Wilfrida Arnodah Itolondo vs Attorney General and 9 others*](#) (2021) eKLR.
4. The application dated 26/5/2023 seeks joinder of a party to an appeal, and it is the court view that whereas the said application has been argued and its ruling reserved, it would be proper to determine



whether there is an appeal before court before an issue of joinder of a party to the appeal can be determined.

5. In other words, the court has to firstly deal with;

i. Whether there is an appeal before it, before deciding on the parties to the appeal.

The above is in line with the decision in the *Dr. Wilfreda Annoldab Holondo* decision aforementioned.

6. Consequently, the ruling in respect of joinder of National Land Commission vide the application dated 28/5/2023 shall await the outcome of the application dated 28/4/2023 for extension of time to file an appeal which the court directs, that it be heard and determined first.

7. Orders accordingly

DATED AND DELIVERED AT KAPSABET THIS 12TH JUNE, 2023.

Hon. M. N. Mwanyale,

JUDGE

In the presence of;

1. Mrs. Opiyo for Intended Appellants

2. Ms. Kerubo and Mr. Mutari for the 1st Respondent

3. Ms. Nderitu for 2nd Respondent

4. Mr. Tororei for Interested Party

5. Mr. Mbuthia for Intended 3rd Respondent

