



**Republic v County Secretary County Government of Migori & 3 others;
Ogada (Ex parte Applicant) (Environment and Land Judicial Review
Case 7 of 2023) [2025] KEELC 5302 (KLR) (17 March 2025) (Ruling)**

Neutral citation: [2025] KEELC 5302 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MIGORI
ENVIRONMENT AND LAND JUDICIAL REVIEW CASE 7 OF 2023
MN KULLOW, J
MARCH 17, 2025**

BETWEEN

REPUBLIC APPLICANT

AND

**COUNTY SECRETARY COUNTY GOVERNMENT OF MIGORI 1ST
RESPONDENT**

CHIEF OFFICER HEALTH 2ND RESPONDENT

**CHIEF OFFICER FINANCE COUNTY GOVERNMENT OF
MIGORI 3RD RESPONDENT**

**COUNTY EXECUTIVE COMMITTEE MEMBER IN CHARGE OF FINANCE
COUNTY GOVERNMENT OF MIGORI 4TH RESPONDENT**

AND

GEORGE OUMA OGADA EX PARTE APPLICANT

RULING

1. The applicants have by a Notice of Motion dated 16/11/2023 sought for the Following orders:
 - i. Spent
 - ii. That the honourable courts do issue an order of stay of any other proceedings pending the hearing and determination of the Application.
 - iii. That the honourable court be pleased to review and/or vary it's orders or directions given on 20/9/2023 to which the court directed that the matter do proceed for hearing and



instead substitute the same with an order of stay of proceedings pending the hearing and determination of Migori ELC Appeal No. E045 of 2021.

- iv. That the cost of the Application be provided for.
2. The application is based on the ground that the court had by the order of 27/6/2023 ordered for a stay of proceedings in the matter pending the hearing and determination of Migori ELC Appeal No. E045 of 2021, but when the matter came up in court on 20/9/2023 the court was misled by the Respondents' Advocate that orders given have lapsed as the appeal no longer existed.
 3. The Applicant further contends that Migori ELC Appeal No. E045 of 2021 is still pending before this court. The Applicant has further stated that County Governments do not need to deposit security for costs as a condition for grant of stay of execution pending the filing of an appeal.
 4. The application and grounds hereabout states were supported by the Affidavit Nelson Jura Advocates in which he deponed on the ground stated as above. The application was opposed by the Respondent by way of a Replying Affidavit in which the Respondent averred that the court was never misled in giving directions as no appeal no longer exists as the as the memorandum of appeal was filed 2 years ago. However, no records of appeal have been filed. The Respondent further says that there was no mistake to warrant a review of the court.
 5. I have considered the Application, Replying Affidavit in opposition to the same and the submissions filed and it is my considered view that the issue for determination is whether there is an error that is apparent on the face of the record as relates to the proceedings dated 20/9/2023 to warrant me to review and/or set aside the said proceedings.
 6. From the records, both advocates who were present in court on the said date did confirm that the purpose of the Mention was to take directions on the hearing of the Judicial Review Application. The Applicant though alleging that was not the proper position, he never annexed any Affidavit or depositions to controvert the position of the above, I find that the Notice of Motion dated 16/11/2023 is not merited to the extent of reviewing my direction of 20/9/2023.

DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 17TH DAY OF MARCH, 2025.

MOHAMMED N. KULLOW

JUDGE

In the presence of:

Vincent Court Assistant.

No appearance For the Plaintiff.

No appearance for the Defendant.

