



**Ouko v Opoko (Environment and Land Appeal E015 of 2023)
[2023] KEELC 22368 (KLR) (14 December 2023) (Ruling)**

Neutral citation: [2023] KEELC 22368 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT HOMA BAY
ENVIRONMENT AND LAND APPEAL E015 OF 2023
GMA ONGONDO, J
DECEMBER 14, 2023**

BETWEEN

ELIJAH OUKO APPLICANT

AND

DANCAN ATTITO OPOKO RESPONDENT

RULING

1. By a notice of motion dated November 23, 2023, the appellant/applicant in person is seeking the following orders;
 - a. The Honourable court be pleased to issue an order of stay of execution of the judgment and decree issued by Honourable Onzere E.M PM in Land case No. 16 of 2020 at the Principal Magistrate at Ndhiwa on the 7th March 2023 pending hearing and determination of this appeal.
 - b. The costs of this application be costs in the cause.
2. The application is rooted in the applicant's supporting affidavit alongside grounds 1 to 6 stated on the face of the same. In a nutshell, the applicant's complaint is that the trial court's judgment was delivered in favour of the respondent, a decree issued and the firm of Nira Auctioneers has proclaimed his properties in execution of the decree which may render this appeal nugatory and cause substantial financial loss to the applicant.
3. The respondent was made aware of the application as he was duly served with the application as disclosed in an affidavit of service sworn on December 13, 2023 by Steven Onyango Oyugi, a licenced process server; see *Ogada-vs-Mollin* (2009) KLR 620.
4. Clearly, the respondent did not respond to the application
5. Thus, the application is steadfast and merited. The same is hereby allowed in terms of prayer number 4 as stated in paragraph 1 (a) hereinabove.



6. The applicant shall deposit a sum of Kshs 10,000/= being security for the due performance of the decree in this court within the next thirty days from this date failure of which the stay order granted herein shall lapse automatically without any further orders being necessary.
7. Costs of the application to be costs in the present appeal.
8. It is so ordered.

DATED AND DELIVERED AT HOMA BAY THIS 14TH DAY OF DECEMBER 2023

G. M. A ONGONDO

JUDGE

PRESENT

1. Appellant/applicant in person
2. Kachuodho, Court assistant

