

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAKURU
CIVIL APPEAL NUMBER 41 OF 2015

JACKSON WAIGWA MUNDIA.....APPELLANT

VERSUS

PETER MAINA MAINGI.....RESPONDENT

RULING

The appeal hereof arose from the Judgment of the Honourable P.O. Muholi, Resident Magistrate delivered on the 24th March 2015 in **Nyahururu PMCC No. 148 of 2013**.

By an application dated 3rd June 2015 brought under **Order 42 Rule 6 (1), (2)** of the **Civil Procedure Rules**. The Appellant sought an order of stay of execution pending hearing and determination of the application interparties and thereafter hearing of the appeal filed herein.

On the 5th June 2015 the High Court (J Mshilla) granted an order of *status quo* pending the interparties hearing of the application.

When parties appeared before me on the 9th June 2015, they agreed to file written submissions and on the 29th July 2015, the court gave a ruling date on a date to be notified to the parties.

While in the process of preparing the ruling, I noticed that the appeal arose from **Nyahururu PMCC No. 148 of 2013** where the subject matter was possession, use and occupation of land described as **Stall No. 84 Nyahururu Bus Park within Nyahururu Town**.

Directions issued on the 25th July 2014 by the Honourable the Chief Justice and Gazetted as **Notice No. 5178** on proceedings relating to the Environment and Land Court and use and occupation of the title to land, **Practice No. 5** – states:-

“that all cases relating to the Environment and use and occupation of and title to land which have been filed at the High Court and where hearing are yet to commence shall be transferred to the Environment and Land Court as directed by the Judge.”

As stated above, this appeal is yet to be heard by the High Court. It concerns use, occupation and possession of land. Pursuant to the above practice directions, this appeal and the application dated 3rd June 2015 is hereby transferred to the Environment and Land Court for hearing and determination.

Parties shall therefore take a mention before the ELC Court for directions at the registry on priority basis.

Dated, signed and delivered in open court this 28th day of January 2016

JANET MULWA

JUDGE

