

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAKURU

CIVIL APPEAL NUMBER 123 OF 2014

KAITET OLE NAIGISA.....APPELLANT

VERSUS

EVANS LEPAPA NCHOE.....RESPONDENT

*(Being an Appeal from the Ruling/Order of Senior Principal Magistrate at Narok(Honourable
Alex Kimanzi Ithuku, dated 17th April 2014)*

RULING/DIRECTIONS

The appeal hereof was firstly filed in the High Court of Kenya at Nairobi vide **HCA No. 259 of 2014**, being an appeal from a Ruling/Order of the Senior Principal Magistrate's Court at Narok delivered on the 29th May 2014. The case was thereafter transferred to Environment and Land Court.

On the 27th June 2014, the Appellant Kaitet Ole Naigisa filed an application seeking an order to stay proceedings in the trial court in **Narok SPMCC No. 40 of 2014** pending hearing and determination of the appeal. Upon hearing the application the court (J. Emukule J) on the 10th October 2014 issued an order staying the said proceedings pending hearing and determination of the appeal. I have noted that the appeal was transferred for hearing and determination to this court under the above Civil Appeal number, despite directions for transfer to the Environment and Land Court (ELC) by the Deputy Registrar (Milimani Commercial Court) by his letter dated 23rd July 2014. I have not seen any record or comments as to why the appeal was not registered under the ELC court register.

On the 23rd June 2015 parties appeared before me for interpartes hearing of the application dated 27th June 2014. They opted to file and exchange written submissions which they have done.

As stated earlier, Prayer 2 of the application was granted, that proceedings in the trial court being **Narok SPMCC No. 40 of 2014** were stayed pending hearing and determination of the appeal.

The appellant's application dated 27th June 2014 seeks the following orders:

1. Spent
2. that this Honourable court be pleased to stay proceedings in **Narok SPMCC NO. 40 of 2014** pending the hearing and determination the appeal herein.
3. That costs of the application be provided for.

I have stated that court records show that on the 10th October 2014 the Hon. Justice Emukule Judge, granted the orders sought in terms of **Prayer No. 2** of the application under review and that effectively determined the said application.

In view of the above, the parties are to take steps towards getting the appeal admitted and set down for taking directions and eventual hearing before Environment and Land Court.

There shall be no orders as to costs.

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

JANET MULWA

JUDGE