



**Ondieki v Ondieki (Environment and Land Appeal E005 of 2023)  
[2023] KEELC 22114 (KLR) (6 December 2023) (Ruling)**

Neutral citation: [2023] KEELC 22114 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NYAMIRA  
ENVIRONMENT AND LAND APPEAL E005 OF 2023**

**JM KAMAU, J**

**DECEMBER 6, 2023**

**BETWEEN**

**HELLEN KEMUMA ONDIEKI ..... PLAINTIFF**

**AND**

**DETAN ANYANZA ONDIEKI ..... DEFENDANT**

**RULING**

1. Under Certificate of Urgency, the applicant Hellen Kemuma Ondieki moved this court on 4/10/2023 with an application dated 28/9/2023 for orders that: -
  1. Spent.
  2. There be a stay of execution of the Judgment delivered on 7/9/2023 in Nyamira CMCC land case No. E025 of 2022 pending the Hearing and Determination of this Appeal.
2. The grounds upon which the Appeal is anchored are that the Lower Court (Honourable W.C. Waswa Senior Resident Magistrate) ordered the cancellation of Titles in respect of East Kitutu/kebirichi/3627, 3628 and 3629. The Applicant was dissatisfied with the Decision of the Lower Court and therefore intends to Appeal against the Judgment and she fears that should she succeed in the said Appeal and execution will have been carried out before then, the said Appeal would be rendered nugatory. She pleads with this court that the stay is granted and even assures this court that the Application is made in good faith and the same is not meant to deny the Respondent from enjoying the fruits of the Judgment.
3. On the other hand, the respondent opposed the Application and towards that end he swore an Affidavit on 11/10/2023 which he filed in court on 16/10/2023. He says that the Decree of the Lower Court issued on 13/9/2023 has already been complied with and a new Title issued to the respondent, a



copy of which he has attached to his replying affidavit. A copy of the same is exhibited in court and now reads the name of Ebrahim Ondieki Nyamoibi of Identity Card Number 0996948 and of P.O. Box 320, Keroka. He has been registered the proprietor of the land. A Title Deed was issued to Nyamoibi on 26/9/2023 a person who is not a party in this Appeal nor in the Lower Court.

4. The respondent has given his undertaking that the applicant shall not be evicted from the suit land since all the parties herein are beneficiaries of the Estate that the suit land is part of. The issues remaining is that of acquiring Letters of Administration of the Estate with this assurance.
5. I really hope that the respondent herein keeps his word. there is therefore good will for the respondent and I order that the land remains in the name of Ebrahim Ondieki Nyamoibi until further Orders are given by the succession Court. I will say no more.

**RULING DATED, SIGNED AND DELIVERED AT NYAMIRA THIS 6<sup>TH</sup> DAY OF DECEMBER, 2023**

**MUGO KAMAU**

**JUDGE**

**In the Presence of: -**

Court Assistant: - Brenda

Mr. Mochama for the Appellant

Mr. Omwenga for the Respondents

