



REPUBLIC OF KENYA

IN THE LAND AND ENVIRONMENT COURT

AT ISIOLO

ELC APPEAL NO. E003 OF 2021

GLADYS KALUYU MUGAMBI.....APPELLANT/APPLICANT

-VERSUS-

GEDION KABIKI KIRERA.....RESPONDENT

RULING

1. This application is dated 1st December, 2021 and seeks the following orders:

1. **THAT** this Honourable Court be pleased to certify this application urgent and hear it ex-parte in the first instance
2. **THAT** this Honourable Court be pleased to order stay of execution of the Judgment/Decree and all the consequential orders thereto issue **23/11/2021 in Isiolo ELC Case No. 12 of 2017** pending the inter parties hearing and determination of this application or until further orders of this court
3. **THAT** this Honourable Court be pleased to order stay of execution of the Judgement/Degree and all the Consequential orders issued on 23/11/2021 in Isiolo ELC Case No. 12 of 2017 pending the hearing and determination of this Appeal or until further orders of this Court.
4. **THAT** costs for this application be provided for.

2. The application is supported by the affidavit of Gladys Kaluyu Mugambi and has the following grounds:

1. The Lower Court delivered the Judgment on 23/11/2021 in which it awarded the Respondent Ksh. 700,000/= general damages and costs of the suit.
2. The Appellant was aggrieved by the Judgment and she filed the appeal herein.
3. The appeal herein has overwhelming chances of success
4. The respondent may execute the Lower Court Judgment against the Appellant anytime.
5. The appellant stand to suffer substantial loss if execution is done before this appeal is heard and determined.
6. The appeal herein is likely to be rendered nugatory in the event it succeeds after execution has already been done.

3. Upon perusal of the applications and the annexed supporting documents, the following orders are issued:

- a) Conditional stay of the execution of the Judgement or decree issued on 13/11/2021 in Isiolo ELC Case No. 12 of 2017 is hereby granted subject to the applicant/appellant depositing with court as security the sum of Kshs 700,000/= within 21 days of today FAILING WHICH the conditional stay granted herein shall automatically lapse.
- b) The Appellant/Applicant should properly serve upon the respondent with the orders issued by the court within 10 days of today.
- c) The application will be heard interpartes on 14/3/2022

DELIVERED IN CHAMBERS AT ISIOLO THIS 24TH DAY OF JANUARY, 2022 IN THE PRESENCE OF:

Court Assistant: Balozi

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HON. JUSTICE P. M NJOROGI

ELC, JUDGE