



REPUBLIC OF KENYA
IN THE LAND AND ENVIRONMENT COURT
AT ISIOLO
MISCELLANEOUS CASE NO. E001 OF 2021

ESTHER MICHUKI KAUNGURU.....APPELLANT/APPLICANT

-VERSUS-

NANCY NKUENE MUTHUIA.....1ST DEFENDANT/RESPONDENT

MARTIN LUBEKE.....2ND DEFENDANT/RESPONDENT

RULING

1. This application is dated 16th December, 2021, it seeks orders:

1. THAT this Honourable Court grant leave to the Firm of M/s Otieno A & Co. Advocates to come on record for the applicant in place of M/s Kiogora Mugambi & Co. Advocates.
2. THAT this Honourable Court be pleased to allow the Applicant to file an appeal out of time in respect of the Judgement/Decree of the Chief Magistrates Isiolo ELC 17 of 2016 delivered on 27/7/2021.
3. THAT this Honourable Court be pleased to Order stay of execution of the Judgement delivered at Isiolo on 27/7/2021 herein pending the hearing and determination of this application.
4. THAT pending inter-partes hearing of the application an Order be issued for maintenance of the currently prevailing status quo in respect to plot No. 190 Kulamawe Isiolo to mean that the orders issued pursuant to the Judgment dated and delivered on 27/7/2021 respectively shall not be implemented in the Lands Office and/or on the ground
5. THAT the costs of this application be provided for.

2. The application is supported by the affidavit of Esther Michuki Kainguru, the applicant sworn on 16th December, 2021 and has the following grounds:

- a) That the applicant herein instructed the firm of M/s Kiogora Mugambi & Co. to file an appeal against the judgement by the trial court.
- b) That the said firm failed/and or refused to file the appeal within the stipulated period as required by law.
- c) That this information was not privy to the applicant herein and upon realization of the same proceeded to instruct the firm of M/s Otieno A & Co. Advocates
- d) That actions and or inactions by counsel on record should not be meted upon the applicant.
- e) That the applicant has a good appeal.

3. Upon perusal of the application and its supporting documents, the following orders are issued:

- a) The applicant to properly serve the application within 10 days of today.

b) The applicant to properly serve the orders issued by the court upon the respondents within 10 days of today.

c) The application will be heard inter-partes on 14th February, 2022.

Delivered in Chambers at Isiolo this 24th day of January, 2022 in the presence of:

Court Assistant: Balozi

HON. JUSTICE P. M. NJORGE

ELC JUDGE, ISIOLO