



REPUBLIC OF KENYA

IN THE LAND AND ENVIRONMENT COURT

AT ISIOLO

ELC APPEAL NO. E002 OF 2021

JESSE MUTIGA LAIBUNI.....APPELLANT/APPLICANT

-VERSUS-

JANE THAIRORA.....1ST RESPONDENT

HELLEN MUKIRI.....2ND RESPONDENT

RULING

1. This application is dated 16th January, 2022 and seeks the following orders;

1. THAT this application be certified urgent and the same be heard ex-parte in the 1st instance.

2. THAT there be a Stay of Execution of the judgment and decision of **Hon. S. M. Mungai Chief Magistrate at Isiolo Chief Magistrates Court ELC Case No. 14 of 2017** delivered on the **8th November 2021** pending the hearing and determination of this application.

3. THAT there be a Stay of Execution of the judgment and decision of Hon. S. M. Mungai Chief Magistrate at **Isiolo Chief Magistrates Court ELC Case No. 14 of 2017** delivered on the **8th November 2021** pending hearing and determination of this Appeal.

4. THAT the respondent be restrained from evicting, taking possession, using and/or in any way interfering with the ownership of Plot Nos. 1026, 1027 Kambi Ya Juu vis Plot No. 1025 Kambi ya Juu – Isiolo County pending the hearing and determination of this application.

5. THAT the Respondents be restrained from evicting, taking possession using and/or in any way interfering with the ownership of Plot Nos. 1026, 1027 Kambi Ya Juu vis Plot No. 1025 Kambi Ya Juu – Isiolo County pending the hearing and determination of this appeal.

6. THAT the costs of this application be provided for.

2. The application has the following grounds:

a. THAT the Applicant/Appellant has filed an arguable appeal with probability of success against the decision of Hon. S. M Mungai Chief Magistrate at **Isiolo Chief Magistrates Court ELC Case No. 14 of 2017** delivered on the **8th November 2021**.

b. THAT the Respondents are likely to execute against the Applicant any time pending the hearing and determination of this Appeal.

c. THAT the Applicant is likely to suffer substantial loss if this application is not granted.

d. THAT it is in the interest of justice and fairness that this application be allowed in default of which the applicant stands to suffer irreparably.

e. THAT the Respondent's will not suffer any prejudice if this application is allowed

3. Having perused the application and the supporting documents, I issued the following orders:

a. Conditional stay of the execution of the apposite Judgment is granted in terms of prayer 2 subject to the applicant depositing with court the sum of Kshs. 400,000/= within 20 days of today FAILING WHICH the conditional stay granted herein will automatically lapse.

b. The application should be properly served upon the respondents within 20 days of today.

c. The application will be heard inter-partes on 14/3/2022.

d. For avoidance of doubt, the applicant should serve the orders issued today upon the respondent within 10 days of today.

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

IN THE PRESENCE OF:

Court Assistant: Balozi

HON. JUSTICE P.M. NJOROGI

ELC JUDGE, ISIOLO