



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT**

**AT MILIMANI**

**ELC SUIT NO. 556 OF 2010**

**FLORENCE W MBUGUA** (suing as administrator of the Estate of

**ROSEMARY WANJIKU MUNYUA (Deceased)**.....**APPLICANT**

**=VERSUS=**

**BEATRICE N MAINA** ( Administratrix, **Estate of JOSEPH M MUNYUA (Deceased)**).....**RESPONDENT**

**RULING No. 2**

**(Ruling on stay of proceedings)**

The court is being called upon to stay the proceedings pending filing of an appeal against the Ruling delivered by this court today on 24/02/2022.

I have considered the application, together with oral submissions for the counsels. I am satisfied that the Applicant has demonstrated substantial loss to be suffered if stay is not granted. The court appreciates that stay of proceedings pending an appeal against a ruling is not the same as stay where judgement /decree has been rendered.

The court also notes that where a party is aggrieved by whatever decision of the court, has a right of appeal.

The Applicant counsel seeks for a chance to ventilate the issue of the “*rejected documents*” at the Appellate court. It is worth noting that stay of proceedings impinges on the right of access to justice and right to be heard without delay and overall right to fair trial.

In the premises, I consider this to be a deserving application for stay of proceedings, which I would grant to allow the Applicant file their appeal.

The stay of proceedings is granted under the following terms: -

- 1. Stay of proceedings is granted pending the filing of the intended Appeal.***
- 2. The Intended appeal be filed within the next 30 days from today.***
- 3. The Deputy Registrar of this court is directed to ensure the typing of proceedings is fast tracked and copies availed to the parties.***
- 4. Costs to be in the cause.***

It is so ordered.

**DATED, SIGNED AND DELIVERED AT NAIROBI IN OPEN COURT THIS 24TH DAY OF FEBRUARY 2022.**

**E. K. WABWOTO**

**JUDGE**

**In Presence of: -**

**Mr. Mwariri for the Applicant.**

**Mr. Ombwayo for the Respondent.**

**Court Assistant: Caroline Nafuna.**