

REPUBLIC OF KENYA

High Court at Embu

Civil Appeal 13 of 2010

CHARLES NDWIGA KANYERIAAPPELLANT/RESPONDENT

VERSUS

AUGUSTINE MUTURI MAIRANI.....1ST RESPONDENT/APPLICANT

MWANIKI MAIRANI.....2ND RESPONDENT/APPLICANT

R U L I N G

This is the application dated 27/2/2013. It is by the respondent/applicant. He is asking the Court to order the Land Registrar Embu to remove all restrictions, inhibitions, prohibitory orders and/or cautions registered against parcel No. KYENI/MUFU/4207 & 4210. In his affidavit the applicant refers to the judgment of this court delivered on 18/12/2012.

The respondent's counsel was served on 11/3/2013 with the application but there is no replying affidavit filed. The respondent presented to court documents he has filed at Nyeri Court of Appeal. In them he seeks leave to file appeal out of time. Judgment herein was delivered on 18/12/2012 and the Court explained to the respondent that he had a right to appeal within 30 days.

There is nothing on record to show that any appeal has been filed. Even if one was filed the rules are clear that an appeal in itself does not operate as stay Ref. *Order 24 Rule 6(1) of the Civil Procedure Rules*. There has been no application for stay filed herein. In light of the judgment delivered herein on 18/12/2012 I find nothing to stop the applicant from implementing the orders therein.

I therefore allow the application to have all the restrictions, prohibitions, cautions etc. lodged against the title KYENI/MUFU/4207 & 4210 lifted.

DELIVERED, SIGNED AND DATED AT EMBU THIS 16TH DAY OF APRIL 2013.

**H.I. ONG'UDI
JUDGE**

**In the presence of:-
Both parties
Njue CC**