



**Kaunguru v Muthuia & another (Miscellaneous Application
E001 of 2021) [2022] KEELC 2749 (KLR) (18 May 2022) (Ruling)**

Neutral citation: [2022] KEELC 2749 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT ISIOLO
MISCELLANEOUS APPLICATION E001 OF 2021**

PM NJOROGE, J

MAY 18, 2022

BETWEEN

ESTHER MICHUKI KAUNGURU APPLICANT

AND

NANCY NKUENE MUTHUIA 1ST RESPONDENT

MARTIN LUBERE 2ND RESPONDENT

RULING

1. This Application is dated 17th May, 2022. It seeks the orders:
 1. That this application be certified urgent.
 2. That this Court be pleased to grant temporary stay of execution of its Rulings delivered on 14/02/2022 and 21/03/2022 and all consequential orders pending the hearing and determination of this Application inter partes.
 3. That this Court be pleased to review its Rulings delivered on 14/02/2022 and 21/03/2022.
 4. That costs of this application be provided for.
2. The Application is supported by the affidavit of Nancy Nkuene Muthuia, the 1st Respondent, sworn on 17th May, 2022 and has the following grounds:
 - A. On 14th February, 2022 the Honourable Court delivered a ruling ELC Miscellaneous Application No. 001 of 2021 in particular ordering that there be a stay of execution of the decree of the Isiolo Magistrate ELC No. 17 of 2016 delivered on 27th July, 2021.
 - B. A copy of the ruling delivered on 14/02/2022 evinces the conclusion that Counsel Nyenyire was present for the 1st Respondent, however the said advocate is not an advocate employed as such with the firm of Maitai Rimita & Co, Advocates.



- C. On 21st March, 2022 the Honourable Court delivered yet another ruling in the same Miscellaneous Application No. E001 of 2021 inter alia granting stay of execution of the decree of the Chief Magistrate Isiolo ELC No. 17 of 2916 delivered on 27th July 2021 pending the filing and determination for the applicant's intended appeal.
 - D. There was an error apparent on the face of the record to warrant a review of the orders granted in Isiolo Environment and Land Court as similar orders were declined by a court of concurrent jurisdiction in Meru Environment and Land Court to wit Meru ELC Misc. Application No. E21 of 2021.
 - E. There is further sufficient reason to warrant review of the orders granted by the Honourable Court as a result of the conflict of interest occasioned by the Advocate acting for the 1st Respondent from the firm on record for the 1st Respondent, one Aoko Otieno, who was on record during delivery of the ruling of 21/03/2022, the same warranting her summary dismissal from the law firm on record for the 1st Respondent.
 - F. The said Aoko Otieno has/is practicing in the name and style of M/S Otieno A & CO as appreciated in the ruling of 21/03/2022 at paragraph 2 (e) therein.
 - G. The conflict in paragraph (E) above is so eminent that the court in the impugned ruling of 21/03/2022 notes at paragraph 3 therein that the application subject of the impugned ruling was not opposed.
3. As the Application needs to be heard inter partes, the following orders are issued:
- a. The Applicant is directed to properly serve the other parties within 14 days of today.
 - b. The parties will come to court for directions on 20/6/2022.

DELIVERED IN CHAMBERS AT ISIOLO THIS 18TH DAY OF MAY, 2022 IN THE PRESENCE:

Court Assistant: Balozi

HON. JUSTICE P. M. NJOROGE

JUDGE

