



**others) v Jennings & 3 others (Environment & Land Case
8 of 2021) [2022] KEELC 2183 (KLR) (10 May 2022) (Ruling)**

Neutral citation: [2022] KEELC 2183 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NANYUKI
ENVIRONMENT & LAND CASE 8 OF 2021**

**AK BOR, J
MAY 10, 2022**

BETWEEN

**KISIRIRI COMMUNITY (SUING THROUGH THOMAS LESKI & 2
OTHERS) APPLICANT**

AND

**HARRY GEORGE JENNINGS 1ST RESPONDENT
LUCY WAMBUI JENNINGS 2ND RESPONDENT
OCS RUMURUTI POLICE STATION 3RD RESPONDENT
INSPECTOR GENERAL OF POLICE 4TH RESPONDENT**

RULING

1. The Applicant filed the application dated 9/02/2022 seeking an order for stay of execution of the orders made in the ruling delivered by the Learned Chief Magistrate on 2/02/2022 pending hearing and determination of the appeal.
2. Further, the Applicant sought an order for this court to direct that the court file in respect of Nanyuki CMELC No. 47 of 2018 be placed before this court for directions and that an order be issued for the typing of the proceedings within 7 days to facilitate filing of the record of appeal.
3. The grounds on which the application was made are set out on the face of it and the supporting affidavit of Wilson Leleshao. He deponed that he was a Secretary of Kisiriri Community and that the County Commander of Laikipia and his officers were already in Rumuruti preparing to execute the court order issued on 02/02/2022. He averred that they filed an appeal on 24/08/2020. He added that the Chief Magistrate issued eviction orders on 3/08/2021 which were limited to the extent of the boundaries of the Respondents' land. That vide an application dated 16/08/2021, the Respondents sought review



of that order. The Chief Magistrate reviewed the order through his ruling dated 2/02/2022, a copy of which was exhibited.

4. The Applicant urged that unless an order for stay of execution was made of the orders issued on 02/02/2022, the appeal will be rendered nugatory and a mere academic exercise. It contended that the Respondents would not be prejudiced if an order of stay of execution were issued.
5. Despite being given time, the Respondents neither filed a response to the application nor did they file submission as directed by the court.
6. The court has considered the submissions of the Applicant together with the application and the supporting affidavit plus the annexures. Looking at the orders made by the Chief Magistrate on 6/02/2022, it is clear that the review was with respect to the enforcement of the court order by the County Police Commander, Laikipia. The rest of the orders remain as they were made by the Chief Magistrate on 3/08/2021.
7. This court notes that a similar application for stay of execution was previously made by the Applicant and Lady Justice. C. Oundo declined to grant the orders of stay of execution in her ruling delivered on 13/01/2021. This court cannot sit on appeal against the decision of a Judge of concurrent jurisdiction. The court notes that the Magistrate's court file has already been forwarded and the typed proceedings are in the file.
8. The court declines to grant the orders sought in the application dated 9/02/2022. The court makes no orders as to costs. The Applicant is directed to take steps to expedite the hearing of the appeal.

DELIVERED VIRTUALLY AT NANYUKI THIS 10TH DAY OF MAY 2022.

K. BOR

JUDGE

In the presence of: -

Mr. Solomon Mukhama for the Applicant

Ms. Wangechi Wangari for the 1st and 2nd Respondents

Ms. Stella Gakii- Court Assistant

No appearance for the 3rd and 4th Respondents

