



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT EMBU**

**Civil Appeal 30 of 2006**

**JOHN NJUE NYAGA.....APPELLANT**

**VERSUS**

**NICHOLAS NJIRU NYAGA.....1<sup>ST</sup> RESPONDENT**

**HARRISON IRERI NYAGA.....2<sup>ND</sup> RESPONDENT**

**RULING**

There is before the court application dated 2/6/2006 seeking order for stay pending the hearing and determination of the appeal filed against decisions of Appeals Committee under the provisions of Land Disputes Act.

The application is brought by way of Chamber Summons and not Notice of Motion as under order 41 C.P.C but no objection is raised. The application is supported by affidavit of the applicant sworn on 2/6/2006.

The Applicant says the decisions of Tribunal and Appeals Committee results in the interference of the ownership of land which is already requested in his name under Registered Land Act Cap. 300. The applicant further swears that if stay is not granted the appeal will be rendered nugatory and he will suffer irreparable loss as the land will get out of his possession and control. The first Respondent in his replying affidavit says he has taken steps to implement the decision of Lands Tribunal and he has already applied and obtained consent from the Land Control Board.

I notice there is no allegation that the applicant has no right of appeal and therefore the court must protect his right.

I am convinced that the Applicant will suffer substantial loss if the order is not granted. As for security, the Applicant shall deposit in court the sum of Sh.20,000/= being security within next 30 days.

The application is therefore allowed and stay granted as prayed. Costs in the cause.

Dated on 4<sup>th</sup> August, 2006

**J.N. KHAMINWA**

**JUDGE**

Read in presence of Applicant's Counsel Mr. Kerongo.

**J.N. KHAMINWA**

**JUDGE**