



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT MERU

ELC APPEAL NO. 4 OF 2020

CYRUS KIRUJA

LUCY KIENDE

SILAS MURIUNGI

STEPHEN GATOBU MUKETHA

CHARLES KIOGORA.....APPELLANTS

VERSUS

MUGAMBI ZAKAYO NTEERE LTD.....RESPONDENT

RULING

1. Before me is an application filed on 29.1.2020 brought pursuant to the provisions of Order 42 Rule 6 of the Civil Procedure Rules. The applicant/appellants are seeking an order of stay of execution of the Judgement dated 17.1.2020 in the Business Premises Rent Tribunal (BPRT) case no. 67-71 of 2018 – Meru pending the hearing and determination of the application and the appeal.

2. The application is premised on the grounds set out on the face it and in the supporting affidavit of Silas Muriungi. The applicants contend that they have been tenants of the respondent for the last 12 years on plot number 127 at Nkubu town. That on 21.6.2018, they learnt that the respondent had issued notices to terminate their tenancies which notices had not been served on them. The applicants had therefore filed references numbers 67-71 of 2018 in the Business Premises Rent Tribunal of which judgment was delivered on 17.1.2020 without notice. The said Judgment directed that they be evicted from the suit premises. They hence stand to suffer immeasurable loss if eviction is carried out.

3. The respondent through the affidavit of Zaverio Gatobu M’Ithinji is not opposing the order for stay of eviction as long as the applicants continue paying rent punctually and that they be ordered to deposit the costs.

4. Having regard to all the issues raised herein, I do allow the application dated 28.1.2020 on the following conditions:

1. That the applicants continue paying rent into the account of the respondent punctually.

2. That each applicant is to deposit a sum of Shs.30,000 in court as security for costs within a period of 45 days from the date of delivery of this ruling.

3. In default of any condition given herein, the orders of stay shall lapse.

DATED, SIGNED AND DELIVERED AT MERU THIS 3RD DAY OF FEBRUARY, 2021

HON. LUCY. N. MBUGUA

ELC JUDGE

ORDER

The date of delivery of this Ruling was given to the advocates for the parties through a virtual session via Microsoft teams on 26.10.2020. In light of the declaration of measures restricting court operations due to the *COVID-19 pandemic* and following the practice directions issued by his Lordship, the Chief Justice dated 17th March, 2020 and published in the Kenya Gazette of 17th April 2020 as Gazette Notice no.3137, this Ruling has been delivered to the parties by electronic mail. They are deemed to have waived compliance with order 21 rule 1 of the *Civil Procedure Rules* which requires that all judgments and rulings be pronounced in open court.

HON. LUCY N. MBUGUA

ELC JUDGE