



**Wanjau v Migwi (Environment and Land Appeal E012 of 2022)
[2025] KEELC 1027 (KLR) (5 March 2025) (Ruling)**

Neutral citation: [2025] KEELC 1027 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NANYUKI
ENVIRONMENT AND LAND APPEAL E012 OF 2022**

**LN MBUGUA, J
MARCH 5, 2025**

BETWEEN

GEOFFREY MAINA WANJAU APPELLANT

AND

MARTIN NDEGWA MIGWI RESPONDENT

RULING

1. Judgment was delivered herein on 20.8.2024 in which the appeal was dismissed while the cross appeal was allowed. The appellant has filed an application dated 28.1.2025 seeking orders for extension of time to file a notice of appeal as well as a stay of execution of the said judgment pending the hearing of the appeal. He contends that he was not aware of the judgment delivered on 20.8.2024 and he therefore desires to lodge an appeal.
2. In opposition thereof, the respondent filed a replying affidavit dated 11.2.2025 contending that judgment was delivered on 20.8.2024 in the presence of both counsels for the parties, adding that the application has been filed rather late, almost half a year from the time judgment was delivered.
3. The provisions of Section 7 of the *Appellate Jurisdiction Act* provides that;

“The High Court may extend the time for giving notice of intention to appeal from a judgment of the High Court or for making an application for leave to appeal or for a certificate that the case is fit for appeal, notwithstanding that the time for giving such notice or making such appeal may have already expired”.
4. It follows that this Court does have a mandate to extend time to lodge a Notice of Appeal. However, the validity of such a notice, as well as any substantive appeal filed are in the domain of the Court of Appeal. See -Samwel Kimutai Korir (Suing as Personal and Legal Representative Of Estate) of Chelangat Silevia v Nyanchwa Adventist Secondary School & Nyanchwa Adventist College [2017] KEHC 2780 (KLR)



5. On the issue of Stay of Execution of the judgment, I find that the applicant has not cited the primary law governing matters of stay of execution which is Order 42 Rule 6 of the Civil Rules. However, from the Replying Affidavit of the respondent, I discern that the surveyor has gone to the suit property to hive off the portion of the land due to the respondent. In order to give the applicant an opportunity to ventilate his issues to the Court of Appeal, the court will grant a conditional stay of execution of the judgment.
6. In the end, the application dated 28.1.2025 is allowed in the following terms.
 - i. That time to file a notice of appeal is extended for 14 days from the date of delivery of this ruling.
 - ii. That a stay of execution of the judgment delivered on 20.8.2024 is allowed for a period of 90 days from the date of delivery of this ruling.
 - iii. That the applicant is condemned to pay the costs of this application.

**DATED, SIGNED AND DELIVERED AT NANYUKI THIS 5TH DAY OF MARCH 2025
THROUGH MICROSOFT TEAMS.**

LUCY N. MBUGUA

JUDGE

In the presence of:

Kirimi for Appellant.

Mukhama for Respondent.

Court Assistant: Nancy Mwangi

