



REPUBLIC OF KENYA



**Kimani v Wambui (Environment and Land Appeal
E011 of 2024) [2025] KEELC 4962 (KLR) (3 July 2025) (Ruling)**

Neutral citation: [2025] KEELC 4962 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAKURU
ENVIRONMENT AND LAND APPEAL E011 OF 2024**

A OMBWAYO, J

JULY 3, 2025

BETWEEN

MARY NJAMBI KIMANI APPELLANT

AND

MARGARET WAMBUI RESPONDENT

RULING

1. This ruling is in respect of the Appellants Notice of Motion application dated 27th March, 2025 which sought the following orders;
 - a. Spent.
 - b. Spent.
 - c. That pending the hearing and determination of this appeal, the honourable court be pleased to issue stay of execution.
 - d. That the terms of the above order be enforced by the OCS Molo Police Station.
 - e. That costs of the application be provided for.
2. The grounds on the face of the application are that judgement was delivered on 15th February, 2024 where the Appellant’s case was dismissed. That being aggrieved by the said judgement, the Appellant filed an appeal. The application was supported by the affidavit of Mary Njambi Kimani sworn on 27th March, 2025. She stated that the court delivered its judgement on the 15th February 2024, which judgement was delivered dismissing her case. She added that being dissatisfied with the judgment, she filed an appeal.



3. She stated that the suit property was land that belonged to her late sister who had bequeathed her. She further stated that her estranged sister in law forcefully occupied the suit land prompting her to file for an eviction order which was unfortunately dismissed.
4. She further stated that she was at the verge of being attached for payment of costs as awarded to the Respondent which she applied and paid the deposit after judgment had been delivered.
5. She stated that she has been following up with the proceedings with the lower court but there has been delays due to backlog. In conclusion, she stated that it was in the interest of justice that she be granted the stay orders.

Response

6. The Respondent filed her Replying Affidavit sworn on 25th April, 2025 where she averred that the application was an abuse of the court process. She averred that judgment was delivered on 15th February, 2024 and the Appellant filed the present appeal on 19th March, 2024.
7. She further averred that the lower court had awarded her costs hence there was no harm in the Appellant being served with the party and party bill of costs.
8. She also averred that once year has since lapsed since the appeal was filed where the Appellant never took any steps to have the same mentioned for directions. The Respondent averred that the Appellant was not keen in prosecuting her appeal.

She urged the court to dismiss the appeal with costs.

9. The Appellant in response filed a supplementary affidavit sworn on 29th April, 2025 where she reiterated the contents of her supporting affidavit. She added that the monies the Respondent's advocates want deposited in court was never taxed and that they needed to be scrutinized by the court.

Submissions

15. None of the parties filed their submissions. Analysis and determination
16. The Court has considered the application and before going into determination of the application, it is worthwhile to note that the Appellant filed a Notice of Withdrawal of the application dated 13th June, 2025. In the circumstance, this court shall therefore not belabor itself in determining the application as the same has since been overtaken by events by virtue of the filed notice of withdrawal by the Appellant. Each party shall bear its own costs to the application. It is so ordered.

SIGNED BY: HON. JUSTICE ANTONY O. OMBWAYO

NAKURU ENVIRONMENT AND LAND COURT ENVIRONMENT AND LAND COURT

DATE: 2025-07-03 15:25:14

