



**Dahman & another v Sudi (Environment & Land Case
24 of 2012) [2023] KEELC 18482 (KLR) (3 July 2023) (Ruling)**

Neutral citation: [2023] KEELC 18482 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MALINDI
ENVIRONMENT & LAND CASE 24 OF 2012**

EK MAKORI, J

JULY 3, 2023

BETWEEN

MUTAHA AHMED DAHMAN 1ST PLAINTIFF

**ALAMIN AHMED DAHMAN (SUING AS ADMINISTRATORS OF THE
ESTATE OF MALIAM BIN SAID) 2ND PLAINTIFF**

AND

ATHMAN SUDI DEFENDANT

RULING

1. The Application dated May 5, 2023 has not elicited any response despite several adjournments.
2. By the Ruling of Olola J dated October 8, 2019, the judge gave a conditional stay in this matter pending appeal to the Court of Appeal in this manner:

“ Accordingly, the order which commends itself to me and which I hereby grant is that there will be stay of execution pending the hearing of the Appeal on condition that the Defendant deposits a sum of Kshs 100,000/- within 30 days from the date of this Ruling. In default, this application shall be deemed to have been dismissed with costs to the Respondents. Otherwise, the costs of this application shall be in the Appeal.”
3. It will seem the conditions set by Olola J have not been achieved hitherto hence the application dated May 5, 2023, seeking to have the temporary stay orders vacated.
4. Since October 2, 2020, those conditions made by the learned judge have never been satisfied nor have any reasons for failure to do so been stated.
5. Counsel for the respondent seeks seven more days to look for her client or file an application to cease to act.



6. I see no need of adjourning further this matter for counsel to pull out of the record. The orders by Olola J were self-executory and took effect on November 8, 2020 when the respondent defaulted in depositing the sum of Kshs 100,000/- as ordered by the judge.
7. Hence, the application dated May 5, 2023 is hereby allowed with costs. The resultant effect is that the application dated October 24, 2019 stands dismissed with costs.

**DATED, SIGNED, AND DELIVERED AT MALINDI VIRTUALLY IN OPEN COURT ON THIS
3RD DAY OF JULY 2023**

EK MAKORI

JUDGE

In the presence of:

Mr Kimani for the Applicant

Ms Oloo for the Respondent

Court Clerk; Happy

