



**Kibunja v Kuria & another (Environment and Land Appeal
E008 of 2023) [2023] KEELC 18912 (KLR) (11 July 2023) (Ruling)**

Neutral citation: [2023] KEELC 18912 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAKURU
ENVIRONMENT AND LAND APPEAL E008 OF 2023
A OMBWAYO, J
JULY 11, 2023**

BETWEEN

JOSEPH NGETHE KIBUNJA APPELLANT

AND

KARANI KURIA 1ST RESPONDENT

LAND REGISTRAR NAKURU 2ND RESPONDENT

*(An appeal from the judgment of the Chief Magistrate's Court
at Nakuru Delivered by Hon. R Kefa (P.M) on 1st March, 2023)*

RULING

1. The applicant Joseph Ngethe Kibunja prays for orders that pending hearing and determination of the intended appeal this court be pleased to order stay of execution of the judgment and decree delivered by Hon R. Kefa Principal Magistrate on the 1st March 2023 and all consequential orders arising therefrom. The application is based on grounds that the application has been made without inordinate delay. That the applicant is likely to suffer substantial loss as he is likely to be evicted. His brother resides in the suit property and is unwell. The applicant is willing to comply with any reasonable consideration to be imposed by the court.
2. The respondent filed grounds of opposition whose import is that the applicant has not raised arguable grounds to merit stay of execution. That the appellant has not obtained any security as a pre-condition for the grant of stay of execution pending hearing and determination of Appeal.
3. That the appellant does not stand to suffer any loss or damage that cannot be compensated by money were he to succeed on appeal.
4. I have considered the rival submissions and do find that the application has been made without inordinate delay as it was made before the expiry of the stay granted by the lower court. On substantial



loss, I do find that the applicant is likely to suffer substantial loss if evicted and succeeds on appeal. On security for costs, I do order that the applicant to give security of the value of Kshs500,000 or the deposit of Kshs250,000 in court as security for costs. Cost of the application in the appeal.

RULING DATED, SIGNED AND DELIVERED VIRTUALLY AT NAKURU THIS 11TH DAY OF JULY 2023.

A O OMBWAYO

JUDGE

