



**Mohammed & another (Suing as Trustees of Masjid Jibrán Mtwapa)
v Kombe & another (Environment & Land Case 202 of 2018)
[2023] KEELC 21442 (KLR) (9 November 2023) (Ruling)**

Neutral citation: [2023] KEELC 21442 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MALINDI
ENVIRONMENT & LAND CASE 202 OF 2018
FM NJOROGE, J
NOVEMBER 9, 2023**

BETWEEN

ABDULLAH MANGI MOHAMMED 1ST PLAINTIFF

PROF MS ABDALLA 2ND PLAINTIFF

SUING AS TRUSTEES OF MASJID JIBRAN MTWAPA

AND

KATANA CHARO KOMBE 1ST DEFENDANT

KARISA CHARO KOMBE 2ND DEFENDANT

RULING

1. The defendant's application dated 25/9/2023 seeks orders of stay of execution of judgment and/or decree in the present suit pending the hearing and determination of the appeal filed against the court's decision, to wit Civil Appeal No 042 Of 2022 Malindi. The application came up on 2/10/2023 when this court ordered that the same be served and an affidavit of service be filed, and also that the same be disposed of by way of written submissions after the respondents had filed their response. A time frame was given for the filing of the submissions. The respondents however never filed any response and this is despite the indication that they were served with the application on 3/10/2023 as ordered by court. Service on them was acknowledged by their advocate's stamp and signature on a copy of the application which exhibit was attached to the affidavit of service. I am therefore persuaded that the application was indeed served and is unopposed. Consequently, in order to grant the appellant an opportunity of ventilating his filed appeal, I hereby allow the application dated 25/9/2023 as prayed in Prayer No 2 thereof. The costs of the application shall abide the outcome of the appeal.

DATED, SIGNED AND DELIVERED AT MALINDI VIA ELECTRONIC MAIL ON THIS 9TH DAY OF NOVEMBER, 2023.



MWANGI NJOROGE
JUDGE, ELC, MALINDI.

