



**Otom (Suing as the Administrator of the Estate of Thomas Otom Agullo) v Commissioner of Lands & 4 others (Environment & Land Case 747 of 2015) [2025] KEHC 9431 (KLR) (2 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 9431 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KISUMU  
ENVIRONMENT & LAND CASE 747 OF 2015**

**E ASATI, J  
JULY 2, 2025**

**BETWEEN**

**MICHAEL ODERA OTOM ..... PLAINTIFF  
SUING AS THE ADMINISTRATOR OF THE ESTATE OF THOMAS OTOM  
AGULLO**

**AND**

**THE COMMISSIONER OF LANDS ..... 1<sup>ST</sup> DEFENDANT  
THE ATTORNEY GENERAL ..... 2<sup>ND</sup> DEFENDANT  
KISUMU TEACHERS' SACCO LIMITED (KITE) ..... 3<sup>RD</sup> DEFENDANT  
KISUMU COUNTY GOVERNMENT ..... 4<sup>TH</sup> DEFENDANT  
NATIONAL LAND COMMISSION ..... 5<sup>TH</sup> DEFENDANT**

**RULING**

1. The Notice of Motion application dated 29<sup>th</sup> May, 2025 brought by the Plaintiff pursuant to the provisions of Order 21 Rule 8, Order 42 Rule 6(1), (2) and Order 51 Rule 1 and 3 of the Civil Procedure Rules and section 1A, 1B, 3 and 3A of the *Civil Procedure Act* seeks for an order of stay of execution and/or enforcement of the judgement of this court delivered on 8<sup>th</sup> May, 2025 pending hearing and determination of an appeal to the Court of Appeal.
2. The grounds of the appeal are partly that unless the orders sought are granted, the appeal will be rendered nugatory and that the Plaintiff is likely to be evicted from the only place he has known as his home for years thereby rendering immense prejudice to the Applicant.



3. The application was supported by the averment in the Supporting Affidavit sworn by the Applicant on 29<sup>th</sup> May, 2025 and the annexures thereto.
4. The application was opposed by the 3<sup>rd</sup> Defendant vide Grounds of Opposition dated 11<sup>th</sup> June 2025.
5. I have considered the application and the grounds of opposition advanced. The judgement whose execute is sought to be stayed only dismissed the suit with costs. No eviction orders were issued in the judgement.
6. The decree emanating from the judgement will therefore not be capable of execution save for recovery of costs. There is no evidence of imminent execution. The grounds for grant of an order of stay of execution of judgement have not been demonstrated.

Application is declined. No orders as to costs.

Orders accordingly.

**RULING, DATED AND SIGNED AT KISUMU, READ VIRTUALLY THIS 2ND DAY OF JULY, 2025 THROUGH MICROSOFT TEAMS ONLINE APPLICATION.**

**E. ASATI,**

**JUDGE.**

In the presence of:

Maureen: Court Assistant.

Omollo Achieng for the Plaintiff/Applicant

No appearance for the Defendant/Respondent

