



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT**

**AT BUNGOMA**

**ELC APPEAL NO. 4 OF 2021**

**FRED WASWALA.....APPELLANT**

**VERSUS**

**EVERLYNE NASIMIYU EJILO.....1<sup>ST</sup> RESPONDENT**

**FRED WANYONYI MUCHANGA.....2<sup>ND</sup> RESPONDENT**

**28/10/2021**

**Coram: Hon. B. N. Olao JUDGE**

**In Chambers**

**ORDER**

I have considered the Notice of Motion dated 14<sup>th</sup> September 2021 and filed under Certificate of Urgency. It seeks a stay of execution of the Judgment and Decree issued in **BUNGOMA CMCC No 200 of 2015**.

Without the Judgment and Decree sought to be stayed, I am unable to exercise my discretion in the matter. I appreciate that the typing of the Judgment may take a while bearing in mind that the same was delivered on 11<sup>th</sup> August 2021. However, it should not be difficult to get certified copies of the hand written Judgment for purposes of this application. As for the decree, I believe that can be obtained in a day at most. All I have is the bill of costs and it is clear from the application that the Applicant seeks a stay of Judgment and Decree issued in **BUNGOMA CMCC No 200 of 2015** pending the hearing of the appeal herein.

The bottom line is that this Court has not been provided with efficient information to enable me consider the merits or otherwise of the Notice of Motion dated 14<sup>th</sup> September 2021 and filed herein on 28<sup>th</sup> September 2021. How, for instance, will this Court determine the issue of substantial loss, which is the cornerstone of such applications, unless I am provided with all the relevant information with regard to the application sought to be stayed?

In the circumstances, the Notice of Motion dated 14<sup>th</sup> September 2021 and filed herein on 28<sup>th</sup> September 2021 is incompetent. It is hereby struck out. The Applicant is at liberty to file a fresh application taking into account the above observations.

**Boaz N. Olao.**

**J U D G E**

**28<sup>th</sup> October 2021.**