



REPUBLIC OF KENYA



KENYA LAW
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**In re Estate of Kiptanui Chesaina Kipkemboi (Deceased) (Succession Cause
160 of 2013) [2024] KEHC 11111 (KLR) (20 September 2024) (Ruling)**

Neutral citation: [2024] KEHC 11111 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
SUCCESSION CAUSE 160 OF 2013
RN NYAKUNDI, J
SEPTEMBER 20, 2024**

IN THE MATTER OF THE ESTATE OF KIPTANUI CHESAINA KIPKEMBOI (DECEASED)

BETWEEN

**SIMION TANUI 1ST INTERESTED PARTY
BENJAMIN KIPKORIR ROTICH 2ND INTERESTED PARTY
ROSEBELLA KWAMBAI KIPTARUS 3RD INTERESTED PARTY
WILLIAM KIAMKENY CHEPKARWA 4TH INTERESTED PARTY
SILAS KOSGEI CHERUIYOT 5TH INTERESTED PARTY
MICHAEL KIPROTICH 6TH INTERESTED PARTY**

AND

GLEDY TANUI KANDIE PETITIONER

AND

**MARY CHERUIYOT WILLIAM OBJECTOR
ROSEBELLA CHEROTICH KIMUTAI OBJECTOR
MAGDALINA JEPTOO BIWOTT OBJECTOR
JENNIFER JEPKOECH KIMUTAI OBJECTOR
EVERLYNE JEBET KOECH OBJECTOR**

RULING

1. What is pending before me for determination is a notice of motion application dated 25th April 2024, where the Interested Parties/Applicants are seeking the following orders:



- a. Spent
 - b. That this Honourable Court be pleased to grant stay of execution of the ruling and orders revoking the grant herein dated and delivered on 11th April 2024 pending the hearing and determination of this application interpartes.
 - c. That this Honourable Court be pleased to grant stay of execution of the ruling and orders revoking the grant herein dated and delivered on 11th April 2024 pending the hearing and determination of the intended appeal.
 - d. That this Honourable Court be pleased to grant leave to the Interested Parties/Applicants to prefer an appeal to the Court of Appeal against the ruling dated and delivered on 11th April 2024.
 - e. That cost of this application be provided for.
2. The Application is premised upon Article 50(2) of *Constitution* of Kenya 2010, Sections 1A, 1B and 3A of the *Civil Procedure Act*, Cap 21 Laws of Kenya, Order 10 rule 11, Order 42 rule 6 and Order 51 rule 1 of the *Civil Procedure Rules*, Section 48 of the *Law of Succession Act* cap 160 Laws of Kenya and Rule 49 of the Probate and Administration Rules.
 3. The Application is supported by the grounds on the face of it and the averments in the annexed affidavit sworn by Simion Tanui, the 1st Interested Party/Applicant. The grounds are among others:
 - a. That this Honourable Court delivered its ruling on 11th April 2024 where it revoked the Certificate of Confirmation of grant issued on 11th April, 2018
 - b. That the Interested parties/Applicants hold title deeds to the estate property which had been subdivided and distributed after the grant was confirmed.
 - c. That the court granted 15days stay of its ruling which is about to lapse on 26th April, 2024.
 - d. That Applicants are aggrieved with the decision of this Honourable Court and intend to prefer an appeal against its decision.
 - e. That Applicants believe that they are third party purchasers for value without notice and thus protected under the law and this is an arguable issue which has to be determined by the Court of Appeal.
 - f. That Applicants believe that this Honourable Court had no jurisdiction to deal with third party title deeds which ought to have been litigated in the land court thus making it an arguable issue to be determined by the Court of Appeal.
 - g. That the Applicants are apprehensive that the Respondents intend to evict them from their parcels of land before the appeal can be heard and determined.
 - h. That the Applicants stand to suffer substantial loss should they be evicted from the suit parcels of land despite having substantially developed their portions in the full glare of the Respondents for many years.
 - i. That the Respondents are in possession of their portions on the ground of the suit land and they therefore stand to suffer no prejudice
 - j. That the Applicants are willing to provide security as may be ordered by this Honourable Court.



- k. That the appeal has high chances of success.
4. The Application is opposed by the 1st Objector/Respondent herein Mary Jeruiyot William vide a Replying Affidavit dated 9th May 2024. The 1st Objector/Respondent deposes as follows:
1. That I am a female individual of sound mind, and pursuant to the ruling delivered by this Honourable Court on 11th April, 2024, one of the administrators in this cause and the 1st Respondent in the instant application hence am competent, and duly authorized by law to cause to be made and swear this affidavit.
 2. That besides this affidavit on my own capacity, I swear it for and on behalf of Jennifer Kipkoech Kimutai, my Co-administrator, for I have the authority to do that.
 3. The contents of the Notice of Motion application dated 25th April 2024, the supporting affidavit of Simion Tanui, which he swore on 25th April 2024, and the contents and annexures thereto a copy of the ruling delivered on 11/4/2024, copies of title deeds, a copy of a draft copy of the notice of appeal have been read and explained to me by our advocate, Mr. Richard M. Wafula, and after having understood their meaning, I wish to respond as follows.
 4. I am advised by our said advocate which advice I verily believe to be legally correct, that the notice of motion by the interested parties is frivolous, vexatious, completely incompetent and amounts to an abuse of the process of the court and that this Honourable Court lacks jurisdiction to entertain the same as shall be demonstrated during interpartes hearing.
 5. I am further advised by our said advocate which advice I verily believe to be legally true, that the so called interested parties have no locus standi to lodge an appeal in this cause as against the ruling of this Honourable Court.
 6. I am further advised by our said advocate which I verily believe to be legally correct, that the so called interested parties, persons who have intermeddled with an estate of a deceased person, and further, persons who are in illegal possession of some portions of the estate of the deceased herein, cannot be allowed to continue to enjoy the status of affairs they have illegally created over the said estate.
 7. I am further advised by our said advocate which advice I verily believe to be legally true, that the so called interested parties have no arguable issue or a good appeal.
 8. The title deeds being talked about by the so called interested parties were illegally procured and hence they cannot help the so called interested parties in any way.
 9. I repeat and reiterate the contents of my supporting affidavit, which I swore on 13th December 2022, the annexures thereto, all filed in Court on 14th December 2022, and I further repeat and reiterate the contents of my supplementary affidavit which I swore on 8th November, 2023, I rely on them in their entirety.
 10. In further response to the said application, I rely on the said ruling of this Honourable Court.

Applicants' Written Submissions

5. The Applicants filed their written submissions dated 27th May 2024. They stated that this Honourable Court delivered its ruling on 11th April 2024 where it revoked the Certificate of confirmation of Grant issued on 11th April 2018 with which they had been provided for in their capacity as purchasers.



6. Further, they stated that upon confirmation of the revoked grant, the applicants together with the beneficiaries proceeded for subdivision of the estate and as a result, title deeds were acquired to the estate which had been subdivided and distributed. They also stated that by virtue of being purchasers, the applicants occupied their respective parcels of land, developed the same in full glare of the Respondents over the years and that as such the Applicants stand to suffer substantial loss should they be evicted in light of the ruling revoking the initial grant.
7. They listed 3 issues for determination as follows:

Whether leave to appeal is merited

8. On this issue, the Learned Counsel for the Applicants' submitted that under the *Law of Succession Act*, there is no express automatic right of appeal to the Court of Appeal; that an Appeal will lie to the Court of Appeal from the decision of the High Court, exercising original jurisdiction with the leave of the High Court or where the application for leave is refused with leave of the Court of Appeal and the basis of this disposition is well put established as per authorities relieved here under. Counsel relied on the following cases: *Peter Wahome Kimocho v Josphine Mwiyeria Mwanu* [2014] eKLR and *John Mwita Murimi & 2 Others v Mwikabe Chacha Mwita & another* [2019] eKLR.
9. The learned Counsel urged this Honourable Court to consider the situation on the ground, which involves the occupation and developments on the respective portions of land, occupied by the applicants herein and that at paragraph 9 and 10 of the supporting affidavit sworn on 25th April 2024, the applicants are apprehensive that they stand to be evicted from their parcels of land before the appeal is determined and should all this happen, the applicants stand to suffer substantial loss.
10. He further stated that in light of the right to appeal enshrined in *Constitution*, they pray that this court does grant the applicants leave to appeal the decision of 11th April 2024.

Whether execution of the ruling herein should be stayed pending appeal

11. On this issue, learned Counsel for the Applicants' stated that Rule 49 which is among the provisions invoked by the Applicants' in the instant application in their view is wide enough to cover the present application and entertain a remedy of stay of execution of a judgement or decree in succession proceedings and he made reference to Rule 49 of the Probate and Administration Rules thereto.
12. Counsel also urged this Honourable Court to draw upon its inherent jurisdiction and grant appropriate orders under Rule 73 of the *Probate and Administration Rules* in order to meet the ends of justice. Further, learned counsel stated that an apt borrowing from the guidelines of the *Civil Procedure Rules*, the applicants herein filed a Memorandum of Appeal and notice of appeal and thus clothed with the locus standi to apply for stay pending appeal, hence the application before this Honourable Court.

On the issue of substantial loss

13. The learned Counsel submitted that the objective of stay of execution is to prevent substantial loss from befalling, ordinarily it is to prevent the appeal from being rendered nugatory and such is lawful and reasonable reason to limit the respondent's right to immediate realization of the fruits of judgement. Counsel relied on the case of *James Wangalwa & Another v Agnes Naliaka Chesoto* [2012] eKLR.
14. Further, counsel opined that the Applicants will suffer substantial loss if the stay is not granted, for they will be displaced from their homes resulting in irreparable disruption to their lives, having substantially developed their respective portions.



15. He finally submitted that the instant application is merited basing on the principles outlined under section 47 of the [Law of Succession Act](#), section 3A of the [Appellate Jurisdiction Act](#) and Article 164(3) (a) of [Constitution](#) of Kenya 2010.

Respondents' Written Submissions

16. The Respondents' filed their written submissions dated 13th June 2024, in which they framed 1 issue for determination as follows;

Whether the applicants/interested parties are deserving of the prayers they are seeking

17. Learned Counsel for the Respondents' submitted that based on the well-founded findings of this Honourable Court as contained in its ruling dated 11/04/2024, the arguments being presented by the applicants are clearly untenable in law hence the same ought to be dismissed with costs to the Objectors. He also stated that the Succession Act does not envisage the filing of a Notice of Motion as the interested parties herein have done so and relied on the case of In [re Estate of Gichuiya Kahora](#) (deceased).
18. The learned counsel further stated that this cause/petition was initiated by Gledy Tanui Kandie and the said Petitioner initially owned, so speak this cause. Counsel stated that the Petitioner also owned the grant of letters of administration intestate issued to him on 27/3/2017 and as regards the estate of the deceased herein and confirmed on 15/3/2018 and which was rightly revoked by this Honourable Court vide its ruling of 11/4/2024.
19. Learned counsel for the Respondents' further submitted that there is no evidence to show that the said Gledy is aggrieved by the decision of this Honourable Court, instead it's the interested parties who are claiming to be dissatisfied by the ruling of this Honourable Court and that what the interested parties had on record, and that is before the grant was revoked was the written submissions which they filed on 15/1/2023.
20. He also stated that without their own pleadings, there is no foundation in law upon which the interested parties can lodge an appeal and that without such a foundation, there is no basis at all to grant leave to the interested parties to prefer an appeal to the Court of Appeal.
21. Further counsel opined that the undisputed facts are that the interested parties did not survive the deceased herein; they were not the children of the deceased; they had no transactions or dealings with deceased herein; they are not creditors to the estate herein; they are not beneficiaries of the said estate; they do not have a claim against the estate herein and counsel relied on the case of [In Re Estate of Obedi Nduiga Rubanita \(Deceased\)](#) [2021] eKLR where at page 5 paragraph 30 the court cited the case of [Alexander Mbaka v Royford Muriuki Rauni & Others](#) (2016) eKLR.
22. Moreover, the learned Counsel submitted that the title deeds being boasted about by the interested parties are products of illegal acts as they are invalid title deeds and they have collapsed. He relied on the case of [Mcfoy v United Africa Co. Ltd](#) (1964) 3 AII ER 1169, cited [In Re Estate of Jeremiah Njoroge](#) (deceased)
23. Furthermore, counsel submitted that if the interested parties entered into any agreements/contracts, then the same were not between the deceased and them, but between the interested parties and other persons and that the said agreements/contracts if they exist, are illegal; and therefore not enforceable in law. He relied on the case of [Kenya Airways Limited v Satwant Singh Flora](#) (2013) eKLR.



24. The learned Counsel also submitted that the interested parties have also stated that this honourable court had no jurisdiction to deal with the said title deeds and that the issue of title deeds ought to have been litigated at the land court. Counsel submitted that this argument is completely misplaced, the issue relating to that grant that was revoked touched on the estate of a deceased person, the said illegally acquired title deeds are products of the said grant, the governing regime is the Law of Succession and this Honourable Court had jurisdiction to revoke the grant for it was fraudulently and by concealment of material facts obtained.
25. Further, the said title deeds collapsed with the said grant and the raising of lack of jurisdiction by this Honourable court is nothing but a red herring.

Analysis and determination

26. I have considered the Application, the Supporting Affidavit, the Replying Affidavit in opposition thereto, the Annexures therein and the parties' submissions. There are 2 main issues for determination:
 - a. Whether leave to appeal is merited
 - b. Whether execution of the ruling herein should be stayed pending appeal

Whether leave to appeal is merited Necessity of leave to appeal in succession cases

27. The debate on whether leave is necessary before filing appeal from the High Court exercising its original jurisdiction in succession cases is not quite closed. A dichotomy still lingers amongst eminent commentators, scholars and lawyers. One school of thought posits that there is necessity of leave to appeal in succession matters; and the reasons advanced by the proponents of this school of thought are two-fold.
28. The first one was well captured in the case of *Rhoda Wairimu Karanja & another v Mary Wangui Karanja & another* [2014] eKLR by the Court of Appeal in these words: -

“We think this is a good practice that ought to be retained in order to promote finality and expedition in the determination of probate and administration disputes.”
29. The second, which has its origins in the Anarita Karimi case, was enunciated in the case of *Mary Wangui Karanja & Another - v- Rhoda Wairimu Karanja & Another* [2014] eKLR, by Musyoka J. to be that: -

“...A right of appeal is statutory and since the *Law of Succession Act* has not provided for such a right the same does not exist. ”
30. Another school of thought takes the view that *Constitution* of Kenya, 2010 provides for unfettered right of appeal. And such provisions in the *Law of Succession Act* requiring leave to appeal being existing law should be dealt with in accordance with section 7(1) of the Transitional Provisions in the Sixth Schedule of *Constitution*: -
 7. Existing laws
 - (1) All law in force immediately before the effective date continues in force and shall be construed with the alterations, adaptations, qualifications and exceptions necessary to bring it into conformity with this Constitution. [Emphasis mine]



31. The Court of Appeal recognized this dichotomy of opinion in the case of Peter Wahome Kimotho v Josphine Mwiyeria Mwanu [2014] eKLR the when Visram, Koome & Maraga, JJ. A (as they then were) stated thus: -

There is no provision for appeals from the High Court to the Court of Appeal. What are provided for are appeals from lower courts to the High Court. That is why Mr. Gikonyo argued that it was necessary for the appellant to seek leave of the Court as there was no automatic right of appeal. We must state that this is clearly a grey area as it may also be argued that Section 66 of the *Civil Procedure Act* is not automatically imported into the *Law of Succession Act*. There is also a thin line to be drawn as to whether the order appealed against was a decree or a mere dismissal order that did not amount to a decree. This is because upon the dismissal of the application for revocation, the grant was confirmed thereby resulting into a decree. Be that as it may, this appeal was filed in 2011 after *Constitution* of Kenya 2010 that gives the Court of Appeal jurisdiction to hear appeals from the High Court and any other court or tribunal as prescribed by an Act of Parliament was operational. Under *Constitution*, all matters from the High Court are appealable to the Court of Appeal. We therefore find that this appeal is competently before us.’

32. Be that as it may, the Court of Appeal in the case of *John Mwita Murimi & 2 others v Mwikabe Chacha Mwita & another* [2019] eKLR held: -

“

“9We re-affirm the decisions of this Court in *Rhoda Wairimu Karanja & another – v- Mary Wangui Karanja & another* [2014] eKLR and *Josephine Wambui Wanyoike – v- Margaret Wanjari Kamau & another* [2013] eKLR, where it was clearly stated that in succession matters, there is no automatic right of appeal without leave of court.

10. It is not in dispute that the impugned ruling in this matter arises from a succession cause and the respondents did not obtain leave to appeal. The decision in *Makhangu – v- Kibwana* [1996] EA cited by the respondent was succinctly considered by this Court in *Rhoda Wairimu Karanja & another – v- Mary Wangui Karanja & another* [2014] eKLR. In analyzing the Makhangu decision (supra), this Court held that under the *Law of Succession Act*, there is no express automatic right of appeal to the Court of Appeal; that an appeal will lie to the Court of Appeal from the decision of the High Court, exercising original jurisdiction with leave of the High Court or where the application for leave is refused with leave of this Court. (See also in *Re Estate of Mbiyu Koinange* (Deceased) [2015] eKLR; HCC Succession Cause No. 527 of 1981).

In the instant matter, we are satisfied that no leave of the court was obtained to file the instant appeal. The present application to strike out the record of appeal has merit. We allow the Notice of Motion dated 9th August 2018 with the result that the record of appeal filed in Civil Appeal No. 93 of 2018 be and is hereby struck out with costs to the applicant.”

33. Even as the debate rages on, I should think that the focus should be on the considerations a court should take into account in granting or refusing leave. This necessity emerged in the case of *Rhoda*



Wairimu Karanja & another v Mary Wangui Karanja & another [2014] eKLR when the Court of Appeal held that;

“In view of these and given the adversarial nature of litigation in our system of justice, it would be unconscionable to allow as final the decision of a single judge, and limit the right of appeal to the High Court, especially now when the court hierarchy has been opened by the creation of the Supreme Court as an apex court.

We think we have said enough to demonstrate that under the Law of Succession Act, there is no express automatic right of appeal to the Court of Appeal; that an appeal will lie to the Court of Appeal from the decision of the High Court, exercising original jurisdiction with leave of the High Court or where the application for leave is refused with leave of this Court. Leave to appeal will normally be granted where prima facie it appears that there are grounds which merit serious judicial consideration. [Emphasis supplied]

34. According to this precedent, leave to appeal should normally be granted where prima facie it appears that there are grounds which merit serious judicial consideration by the Court of Appeal. I should add that, exercise of the discretion in granting leave to appeal in succession causes, should be underpinned by the right of appeal provided in Constitution.

35. Section 3A of the Appellate Jurisdiction Act provides that: -

“(1) The overriding objective of this Act and the rules made hereunder is to facilitate the just, expeditious, proportionate and affordable resolution of the appeals governed by the Act.

(2) The Court shall, in the exercise of its powers under this Act or the interpretation of any of its provisions, seek to give effect to the overriding objective specified in subsection (1).

(3) An advocate in an appeal presented to the Court is under a duty to assist the Court to further the overriding objective and, to that effect, to participate in the processes of the Court and to comply with directions and orders of the Court.”

36. Further Article 164(3) (a) of Constitution provides that: -

“(3) The Court of Appeal has jurisdiction to hear appeals from—(a) the High Court.”

37. These provisions donate jurisdiction to the Court of Appeal to entertain appeals from decisions of the High Court. This includes Probate and Administration disputes determined by the High Court.

Applying the test

38. The applicants have expressed grievance on the decision of this court vide a ruling delivered on 11th April 2024, wish to litigate in the Court of Appeal and they have further, annexed the draft memorandum of appeal which raises triable issues to be adjudicated upon. As the court considered the situation on the ground after visiting the land, and took into account the dwelling houses, I do not see anything substantial which may require further and serious discriminating interrogation by a higher court. Nevertheless, in light of the right of appeal enshrined in Constitution, I grant the applicants



leave to experience the appeal tour. Accordingly, I grant the applicants leave to file appeal within the prescribed time for appealing commencing today.

Whether execution of the ruling herein should be stayed pending appeal

39. The general rule governing the grant of an order of stay of execution is that the applicant must demonstrate the likelihood of an irreparable substantial loss. I note that the applicants premised their application on Rule 49 of the *Probate and Administration Rules*. Their main prayer is stay of execution of the ruling herein dated 11th April 2024.
40. hereas Rule 63 (1) of the *Probate and Administration Rules* has not cited Order 42 Rule 6 of the *Civil Procedure Rules* as one of the orders of the *Civil Procedure Rules* which apply to Succession causes, Rule 49 which is among the provisions invoked by the Applicants, is in my view wide enough to cover the present application and entertain a remedy of stay of execution of a judgment or decree in succession proceedings. Rule 49 of the *Probate and Administration Rules* provides that:
- “A person desiring to make an application to the court relating to the estate of a deceased person for which no provision is made elsewhere in these Rules shall file a summons supported, if necessary, by affidavit.”
41. However, I note that the objectors opined that the *Law of Succession Act* does not envisage the filing of a Notice of Motion as the interested parties have done here relied on the case of In re Estate of Gichuiya Kahora (deceased). However, with regards to this, I invoke Article 159(2) of *Constitution* which provides that “In exercising judicial authority, the courts and tribunals shall be guided by the following principles— (a) justice shall be done to all, irrespective of status; (b) justice shall not be delayed; (c) alternative forms of dispute resolution including reconciliation, mediation, arbitration and traditional dispute resolution mechanisms shall be promoted, subject to clause (3); (d) justice shall be administered without undue regard to procedural technicalities; and (e) the purpose and principles of this Constitution shall be protected and promoted”.
42. In addition, the court may draw upon the wide powers in Section 47 of the *Law of Succession Act* to entertain any application and to determine any dispute under the *Law of Succession Act*.
43. I need not state that, the court may, in appropriate instances, draw upon its inherent jurisdiction to grant appropriate orders under Rule 73 of the *Probate and Administration Rules* in order to meet the ends of justice and to prevent abuse of process of the court. These elegant provisions of “existing law”, are in perfect conformity with *Constitution* especially the strict command in Article 159 of *Constitution* that courts of law should strive to administer substantive justice.
44. An Apt borrowing from the *Civil Procedure Rules*, the applicants herein have filed a memorandum of appeal and notice of appeal and thus clothed with the locus standi to apply for stay pending appeal.

Substantial loss occurring

45. Stay of execution pending appeal is a discretionary power but, which must not be exercised on whims, but judiciously; on defined principles and the facts of the case.
46. The objective of stay of execution is to prevent substantial loss from befalling the applicant; ordinarily, it is to prevent the appeal from being rendered nugatory. Such is lawful and reasonable reason to limit



the respondent's right to immediate realization of the fruits of judgment. See *James Wangalwa & Another v. Agnes Naliaka Cheseto* [2012] eKLR: -

“The applicant must establish other factors which show that the execution will create a state of affairs that will irreparably affect or negate the very essential core of the applicant as the successful party in the appeal ... the issue of substantial loss is the cornerstone of both jurisdictions. Substantial loss is what has to be prevented by preserving the status quo because such loss would render the appeal nugatory.”

47. The applicants state that they will suffer substantial loss if the stay is not granted, for they will be displaced from their homes resulting in irreparable disruption to their lives, having substantially developed their respective portions. The applicants further state that the respondents on the other hand are in possession of their portions on the ground of the suit property, and as such stand to suffer no prejudice.
48. In this case, the ruling of this Court that the Applicant seeks to appeal against confirmed the grant of letters of administration issued to the petitioner and confirmed on 11th April 2018 is hereby revoked for being fraudulently obtained and concealment of material facts. The Interested parties/ Applicants further stated that they hold title deeds to the estate property which had been subdivided and distributed after the grant was confirmed, that the court granted 15 days stay of its ruling which is about to lapse on 26th April, 2024 and that they are apprehensive that the Respondents intend to evict them from their parcels of land before the appeal can be heard and determined.
49. All that the Applicants have done is to state that they stand to suffer substantial loss should they be evicted from the suit parcels of land despite having substantially developed their portions in the full glare of the Respondents for many years. The Applicants have not shown that the Respondents are likely to evict them from the suit parcels of land in order to defeat her intended appeal. It is additionally observed that nothing in the Applicant's pleadings or submissions discloses the nature of her appeal. Whether the intended appeal is arguable or not cannot be determined in such circumstances. It was upon the Applicants to show that they have an arguable appeal but they have not done so. There is therefore no good reason advanced to warrant staying the ruling of this Court.
50. Consequently, I do find that this application partially merited and the same is allowed as follows;
 - a. Leave is hereby granted to the Applicants to appeal the decision of this Court in accordance with the applicable rules;
 - b. The prayer for stay of execution is declined
 - c. Costs to abide the outcome of the appeal.

It is so ordered.

DATED SIGNED AND DELIVERED AT ELDORET, THIS 20TH DAY OF SEPTEMBER 2024

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R. NYAKUNDI
JUDGE

