



Ediwuor v Ogalo & 4 others; Ojwang & another (Interested Parties) (Land Case Appeal E020 of 2024) [2024] KEELC 5897 (KLR) (17 September 2024) (Ruling)

Neutral citation: [2024] KEELC 5897 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT HOMA BAY
LAND CASE APPEAL E020 OF 2024
GMA ONGONDO, J
SEPTEMBER 17, 2024**

BETWEEN

ESAU EDIWUOR APPELLANT

AND

GEORGE ONER OGALO 1ST RESPONDENT

RICHARD OOKO STADI 2ND RESPONDENT

LAND SURVEYOR, HOMA-BAY COUNTY 3RD RESPONDENT

LAND REGISTRAR, HOMA-BAY COUNTY 4TH RESPONDENT

ATTORNEY GENERAL 5TH RESPONDENT

AND

PAMELA ADHIAMBO OJWANG INTERESTED PARTY

CAROLINE ANYANGO OUMA INTERESTED PARTY

(Appeal from the Judgement and Decree of Hon. Joy Shiundu Wesonga (PM), Homa-Bay Magistrate Law Courts in HOMABAY CMC ELC NO. E5 OF 2022 delivered on 19th April 2024)

RULING

1. In an application by way of Notice of Motion dated 10th July 2024, the applicant through, L. Rodi Orege and Company Advocates is seeking, inter alia, that there be stay of execution of the trial court's judgment and decree in Homa-Bay Chief Magistrate's Court Environment and Land Case No. E5 of 2022 delivered on 19th April 2024 pending the hearing and determination of this appeal.



2. Ms. B Ochieng for the 1st respondent has informed the Court that a response was filed to the application. That nonetheless, the stay Order sought in the application be granted with no order as to costs.
3. I have considered the application in entirety as well as heard Ms. B Ochieng for the 1st respondent and Mr. Okumu for the applicant.
4. The other respondents and interested parties were duly served as per affidavit of service sworn on 5th August 2024. They didn't respond to the application.
5. The applicant has an undoubted right of appeal in the circumstances, see *Butt-versus Rent Restriction on Tribunal* (1979) eKLR.
6. Accordingly, the application is merited. The same is hereby allowed in terms of prayer No. 3 for stay of execution of Judgment and decree therein as stated in paragraph 1 herein above with no order as to costs.
7. It is so ordered.

RULING DELIVERED, DATED AND SIGNED THIS 17TH DAY OF SEPTEMBER 2024.

G.M.A ONG'ONDO

JUDGE

In the presence of;

Mr. Okumu learned counsel for the Applicant.

Ms. B. Ochieng learned counsel for the 1st Respondent.

T. Luanga, Court Assistant

