



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT OF KENYA

AT ELDORET

E & L CASE NO. 286 OF 2013

WANGARE WANJAU.....PLAINTIFF

VERSUS

COUNTY GOVERNMENT OF UASIN GISHU.....DEFENDANT

RULING

1. The Defendant moved the Court through the Motion dated the 29th March, 2019 and filed on the 16th May, 2019 seeking for stay of execution of the decree issued on the 28th February, 2019 pending the hearing and determination of the appeal. The application is based on the six grounds on its face and supported by the affidavit sworn by Mr. S. K. Lel, the County Attorney, on the 29th March, 2019.
2. The application is opposed by the Plaintiff through her replying affidavit sworn on the 28th May, 2019.
3. The learned Counsel for the Defendant and Plaintiff filed the written submissions dated the 20th November, 2019 and 21st November, 2019 respectively.
4. That the issues in this application is similar to those raised in a similar application of the same date but filed on 10th April, 2019 in Eldoret ELC No. 285 of 2013. That the only differences in that matter and the current one is the reference of the suit land and the Plaintiff. That the Defendant and Counsel for the parties in the two matters are the same. That in both matters their judgments were read on the 21st February, 2019 and the orders granted in favour of the Plaintiffs are more or less the same.
5. That for the reasons set out in (4) above and the similarities in the applications, affidavit evidence and submissions in both matters, the analysis and findings in the ruling in Eldoret ELC No. 285 of 2013 will apply in this ruling.
6. That flowing from the foregoing, the court finds merit in the Defendant's Motion dated the 29th March, 2019 and filed on the 16th May, 2019 and orders as follows:

(a) That there be a stay of the execution of the decree issued on the 28th February, 2019 arising from the Judgment of 21st February, 2019 for a period of one (1) year pending the hearing and determination of the Defendant's appeal, on condition that the Defendant do deposits Kshs.3,000,000 (Three Million) as security for the due performance of the decree within sixty (60) days in an interest earning account in a financial institution agreed upon by the parties in the joint names of the parties' Counsel and in default, the stay order to automatically lapse.

(b) The costs of the application abide the outcome of the appeal.

Orders accordingly.

Dated and signed at Eldoret this 19th day of February, 2020.

S. M. KIBUNJA

JUDGE

Ruling read in open court in the presence of:

Mr. Mathai Advocate for Plaintiff.

Mr. Odhiambo Advocate for Defendant.

Court Assistant: Christine