

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MISC APPLICATION 116 OF 2016

MOHAMED YUNIS SOROYA.....INTENDED APPELLANT/APPLICANT

VERSUS

MOHAMED YUSUF KHAN SOROYA.....1ST RESPONDENT

SOROYA GROUP LIMITED.....2ND RESPONDENT

RULING

This is an application by way of notice of motion under Sections 75 (1) Section 79 G, Section 95 of the Civil Procedure Act, Order 42, Order 43 of the Civil Procedure Rules, Sections 3A and 3B of the Appellate Jurisdiction Act for Orders that leave be granted to file appeal out of time, there be a stay of execution and that proceedings in the lower court be stayed. The reasons for seeking those orders are set out on the face of the application alongside an affidavit sworn by the advocate for the applicant.

The respondents opposed the application by filing a preliminary objection dated 6th and filed on 7th May, 2015. When I was preparing to write this ruling it transpired to me that the foundation of the dispute herein is a piece of land title No. LR 209/4300/161. On perusing the impact of the environment and Land Court Act No. 19 of 2011 I was persuaded that this court is not possessed of jurisdiction to address the dispute herein. This is because the Enactment of that Law alongside the provisions of Articles 162 (2) and 165 (5) divested the High Court of any jurisdiction to deal with matters related to land and in particular a dispute of the nature in this proceedings.

That being the case, I direct that this file shall be transferred to the Environment and Land Court Division for hearing and disposal of the dispute herein.

Dated, signed and delivered at Nairobi this 11th day of December, 2018.

A. MBOGHOLI MSAGHA

JUDGE