



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT**

**AT KITALE**

**ELC APPEAL NO. 1 OF 2018**

**GABRIEL G. ODHIAMBO.....RESPONDENT**

**VERSUS**

**WILSON CHEPKWONY.....APPLICANT**

**RULING**

1. The applicant filed a motion dated **20/11/2019** and filed in court on **22/11/2019** seeking the following orders:

(a) ...spent

(b) ...spent

(c) **That there be stay of execution of the judgment of this court in Kitale HC Appeal No. 1 of 2018 delivered on 30/9/2019 and all its consequential orders pending the hearing and determination of the appeal.**

(d) **Costs be in the cause.**

2. The grounds upon which the application is sought are that the applicant being aggrieved and dissatisfied with the judgment of the court there is need for an order of stay of execution of the decree/judgment pending the hearing and determination of the appeal; that unless the orders of stay of execution are granted, the said appeal will be rendered nugatory; that the applicant's appeal has very high chance of success and that it is just and expedient that this application be allowed as prayed.

3. The application is brought under the provisions of **Section 3A and 34 of the Civil Procedure Act, Orders 45 Rule 6(1) and Order 9 Rule 10 of the Civil Procedure Rules.**

4. The application is supported by the sworn affidavit of the applicant dated **20/11/2019**.

5. On **3/12/2019** this court ordered submissions to be filed in the matter and scheduled for a mention on **30/1/2020**. The respondent file submissions on **9/1/2020**. The applicant did not file any submissions.

6. There having no other mode provided for disposal of the application dated **20/11/2019** I find that the said application has not been prosecuted and I hereby dismiss it for want of prosecution.

**Dated, signed and delivered via Teleconference at Nairobi on this 7<sup>th</sup> day of May, 2020.**

**MWANGI NJOROGE**

**JUDGE**

**Ruling read in the absence of the parties who had been notified and invited to attend.**

**MWANGI NJOROGE**

**JUDGE**