



REPUBLIC OF KENYA
IN THE COURT OF KENYA AT MERU
LAND AND ENVIRONMENT COURT
CIVIL APPEAL NO 36 OF 2015

M'MUCHEKE M'MUBWIKA.....1ST APPELLANT
MESHACK MURUNGI.....2ND APPELLANT
STEPHEN MEEME.....3RD APPELLANT
JULIUS KAARI MUCHEKE.....4TH APPELLANT

VERSUS

JANET KAUNANKU KITHIA.....1ST RESPONDENT
SIMON MAORE.....2ND RESPONDENT

R U L I N G

This application is dated 24th February, 2016 and seeks orders:-

- 1. THAT this Honourable Court be pleased to certify this application urgent and hear it on priority basis.***
- 2. THAT this Honourable Court be pleased to order the return of the Lower Court No. 43 of 2011 to Maua Law Courts for the purposes of the calculation and release of the decretal sum therein to the Respondents herein.***
- 3. THAT this Honourable Court do make such other or better orders as it may deem fit in the interests of justice in the circumstances of this matter.***
- 4. THAT costs of this application be provided for:***

The application supported by the affidavit of Haron Gitonga and has the following grounds:-

- 1. The appellants' application for stay of execution of the Decree in Maua CMCC NO. 43 OF 2011 was dismissed by this Court on 8th October 2015.***
- 2. The Appellants refused to fulfill this Court Conditions on stay of execution granted to them.***
- 3. After the stay of execution was refuse , the appellants caused the original Lower Court File to be hurriedly forwarded to the Registry of this Court.***

4. The Lower Court has refused to released the decretal sum as per the judgement of the Lower Court citing lack of the original file.

5. The move by the Lower Court to forward the file in unexpected hurry before releasing the decretal sum to the applicants amounts to a stay of execution in disguise.

6. Unless the Lower file is returned to Maua Law Courts the orders of this Court refusing stay of execution shall be in vain and this Court's process

Mr. Gitonga has explained that the application seeks to have the file returned to Maua Law Courts so that some money deposited in Court be. In this Court's Ruling dated 08/10/2015, It was noted that the appellants did not deposit a sum of Kshs. 300,000/=

as had been directed by the Court. The appellants and their Advocate are absent.

I find that this application has merit. Prayer 2 thereof is granted .

Costs shall be in the cause.

It is so ordered.

Delivered in open Court at Meru this **9th day of March, 2016** in the presence of:-

CC: Daniel/Lilian

Harun Gitonga for the Applicants.

P. M. NJOROGE

JUDGE