

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT KITALE

ELC CASE NO. 142 OF 2014

PATRICK TOROINO MITINGI

(Suing as the administrator of the Estate of

TOROINO MITINGI.....PLAINTIFF

VERSUS

THE COUNTY GOVERNMENT

OF WEST POKOT.....DEFENDANT

RULING

1. In this suit, the plaintiff brought an application dated 23/3/2020 under Section 3 & 3A of the Civil Procedure Act, Order 42 Rule 6 sub rules 1, 2, 3, 4, 5 and 6 of the Civil Procedure Rules. He seeks the following orders:-

(1) ...spent

(2) That this honourable court be pleased to issue orders of stay of execution of this court's judgment pending hearing and determination of the plaintiff's intended appeal to the Court of Appeal.

(3) ...spent

(4) That costs of this application provided for.

2. The application is supported by an affidavit of the applicant dated 23/3/2020 The grounds upon which the application is made are that a notice of appeal has been filed; that the plaintiff's intended appeal raises substantial issues of law; that the plaintiff will suffer substantial loss if the orders sought are not granted and that it is in the interest of justice that the orders sought be granted. The application is not opposed. There is a notice of appeal filed in the court record on 4/3/2020, a day after the judgment was delivered.

3. I have perused the supporting affidavit and found that there is sufficient evidence that the applicant may indeed suffer irreparable harm if he is evicted before the appeal is concluded. I therefore grant **prayer no 2 of the application. The costs of the application shall be costs in the appeal.**

Dated, signed and Delivered at Kitale via electronic mail on this 23rd day of July, 2020.

MWANGI NJOROGE

JUDGE, ELC, KITALE.