



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**

**AT MOMBASA**

**ELC. NO. 271 OF 2007**

**MOHAMED ALI ASKUL.....PLAINTIFF/RESPONDENT**

**- VERSUS -**

**ALI MBWANA & 13 OTHERS.....DEFENDANTS/APPLICANTS**

**RULING**

[1] The applicants filed this notice of motion on 6th March 2014 he prays that this matter be certified urgent. That there be a stay of the judgment delivered on 6th December 2013 pending the determination of the appeal which the defendants intend to file. The applicants state that they have resided on the suit land for over sixty years and that they have nowhere else to go and that the appeal has high chances of success.

[2] The respondent filed a replying affidavit and denied that the applicants have nowhere to go. He argued that he stands to lose massively in terms of usage of his properties. He urged the court not to allow the application and that if it is allowed, the applicants be ordered to deposit Kshs. 5 million to take care of the suit properties pending the prosecution of the appeal.

[3] When this judgment was delivered by Justice Tuiyot on 6th December 2013 there was no application for stay of execution by way of the respondents. The learned judge gave the parties 90 days to move and vacate out of the two plots belonging to the plaintiffs. This application was made exactly on expiry of 90 days in a bid by the applicants to buy more time.

I find no merit in this application and I dismiss it with no orders as to costs.

**Dated and delivered in open court this 14th day of November 2014.**

**S. MUKUNYA**

**JUDGE**

**14.11.2014**

In the presence of:

Mr. Obara Advocate for the defendant

Miss. Oluoch advocate for Mr.Omwenga Advocate