



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT CHUKA**

**MERU ELC APPEAL CASE NO. E013 OF 2020**

**GIDEON MUCHUI ARITHI.....APPELLANT**

**VERSUS**

**WILSON MUTAI.....RESPONDENT**

**AN APPEAL FROM THE RULING MAD/OR ORDERS IN E & L CASE**

**NUMBERS 22 OF 2020 IN THE PRINCIPAL MAGISTRATE'S COURT AT**

**TIGANIA BY HON. G. SOGOMO (PM) GIVEN AND/OR DELIVERED ON 03 DECEMBER 2020)**

**BETWEEN**

**WILSON MUTAI.....PLAINTIFF**

**VERSUS**

**GIDEON MUCHUI ARITHI.....DEFENDANT**

**RULING**

1. This application has been handled in chambers in the absence of the applicant due to Covid-19 concerns.
2. This application is dated 10<sup>th</sup> December, 2020 and seeks orders:
  1. That this application be certified by this honourable court as extremely urgent and service of the same be dispensed with at the first instance and the same be heard exparte.
  2. That pending the hearing and determination of this application, this honourable court be pleased to stay execution of, and all proceedings to, enforce the ruling and/or orders in the Principal Magistrate's court at Tigania E&L Suit number 22 of 2020 delivered on 03 December, 2020 by Hon. G. Sogomo (PM)
  3. That execution of, and all proceedings to, enforce the Ruling and/or orders in the Principal Magistrate's court at Tigania E & L Suit Number 22 of 2020 delivered on 03 December, 2020 by Hon. G. Sogomo (PM) be stayed by this honorable court pending the hearing and determination of the Appellant's Appeal.
  4. That this honourable court be pleased to make such further orders as are necessary to serve the ends of justice in the matter.
  5. That the costs of this application be in the cause.
3. The application is supported by the Appellant's affidavit sworn on 10<sup>th</sup> December, 2020.
4. Having perused the pleadings in support of this application, I issue the following orders:
  - a) Prayer 2 in the application is conditionally granted in terms of the provisions of Order 42 Rule 6 of the Civil Procedure Rules **provided** that the applicant deposits with court as security within 14 days of today a sum of Kshs.400,000/= FAILING WHICH this conditional stay will automatically lapse.

b) The applicant should properly serve this application upon the defendant within 10 days of today.

c) The application will be heard interpartes by the Hon. Lady Justice Lucy Mbugua, ELC Judge at Meru, on 27<sup>th</sup> January, 2021.

**Delivered in chambers at Chuka this 15<sup>th</sup> day of December, 2020 in the presence of:**

**CA: Ndegwa**

**Ruling to be transmitted electronically to the applicant.**

**P. M. NJOROGI,**

**JUDGE.**