



REPUBLIC OF KENYA



**KENYA LAW**  
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**Okongo v Kiguru (Environment and Land Appeal E111 of 2024)  
[2025] KEELC 6991 (KLR) (9 October 2025) (Ruling)**

Neutral citation: [2025] KEELC 6991 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI  
ENVIRONMENT AND LAND APPEAL E111 OF 2024**

**JG KEMEI, J**

**OCTOBER 9, 2025**

**BETWEEN**

**GEORGE ELIJAH OKONGO ..... APPELLANT**

**AND**

**JEDIDA GATHONI KIGURU ..... RESPONDENT**

**RULING**

(The Appellant's Chamber Summons dated 20/6/25)

1. What is before the court is the Appellants' Chamber Summons dated 20/6/25. It seeks that the security for costs in this appeal, which was initially ordered to be paid in monetary terms, be replaced with the title for land known as SOUTH TESO/AMUKURA/1292. Additionally, it requests that the court be authorised to extend the time within which the security for costs must be deposited. Finally, it seeks that the Registrar be directed to accept the title deed and the valuation report of the said property as sufficient security for costs pending the hearing and determination of this appeal.
2. The appellant averred that the court ordered him to deposit in the sum of Kshs 200,000/- as a condition for prosecuting the appeal. That he is unable to raise the total sum due to financial constraints, hence the proposal to substitute the security, which he is willing to surrender the original title deed and a certified valuation report as security therein.
3. In opposing the application, the respondent stated that the applicant has failed to comply with the court's order regarding the deposit provisions. That the judgment against the applicant is a money decree, and the appropriate security to be deposited should be in the form of money and not a title deed.
4. Furthermore, the intended appeal is merely a sham and a delaying tactic designed solely to delay the execution proceedings and hinder the eviction of the applicant from the suit property.
5. Parties filed written submissions, which I have read and considered.



6. The primary issue for determination is whether the application is justified. That is to say, whether the court should extend the time and, secondly, whether the deposit should be substituted.
7. I have considered the application, and it is undisputed that the court issued a ruling on 20/5/25, granting a stay of execution subject to the applicant depositing Kshs 200,000/- within 45 days from the date of the ruling. If the applicant fails to do so, the stay will lapse. Therefore, the 45 days will expire on or about 5/7/25.
8. It is to be noted that the application was made on 20/6/25, fifteen days before the expiry of the orders granted by the court.
9. The apex court has pronounced itself on this matter in the case of Nicholas Kiptoo Arap Korir Salat versus IEBC & 7 Others Civil Application no. 16 of 2014 (2014)eKLR, where the Supreme Court of Kenya considered the various factors to be satisfied before an Application for extension/ enlargement of time can be allowed and/or be granted. The court stated;
  - a. Extension of time is not a right of a party. It is an equitable remedy that is only available to a deserving party at the discretion of the Court;
  - b. A party who seeks for extension of time has the burden of laying a basis to the satisfaction of the court
  - c. Whether the court should exercise the discretion to extend time, is a consideration to be made on a case to case basis;
  - d. Whether there is a reasonable reason for the delay. The delay should be explained to the satisfaction of the Court;
  - e. Whether there will be any prejudice suffered by the respondents if the extension is granted;
  - f. Whether the application has been brought without undue delay; and
  - g. Whether in certain cases, like election petitions, public interest should be a consideration for extending time.
10. The applicant has explained that due to financial constraints, he is unable to raise the cash of Kshs 200,000/-. There is no evidence before the court to show that the applicant's plea is intended to derail the appeal in any way. This court finds that, in the interest of justice, the enlargement of time is justified, particularly because the request was made before the expiry of the period specified in the orders.
11. Regarding the question of the substitution of the deposit, I have perused the certified copies of the title, the valuation report, and the search, and the court is satisfied that the substituted security is adequate given the circumstances. I believe that security for costs should not be excessively high, as it could stifle a party's right to be heard or serve as a significant barrier to prevent a party from approaching the court and pursuing their claim. Courts are established to resolve disputes, not to create obstacles to access justice.
12. Final orders for disposal
  - a. For the above reasons, the application is merited.
  - b. Parties are instructed to appear before the Deputy Registrar to verify the documents, including the original title, original search, and original valuation report, within seven days from the date hereof. If the documents are found to be in order, they shall be held in safe custody as security



in place of the previously granted deposit of Kshs 200,000/- by the court, pending the hearing and final decision of the appeal.

c. Costs shall be in favour of the respondent

13. Orders accordingly

**DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 9<sup>TH</sup> DAY OF OCTOBER 2025 VIA MICROSOFT TEAMS.**

**J G KEMEI**

**JUDGE**

Delivered online in the presence of;

1. N/A for the Appellant
2. Mr Gachungi for the Respondent 3. C/A– Ms Yvette Njoroge

