



**REPUBLIC OF KENYA**

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

**CHUKA ELC CASE NO. 208 OF 2017**

**FORMERLY MERU ELC NO. 169 OF 2013**

**LUCY KARAUKI KIRAMBIA (suing as the legal representative of the estate of  
Peter Muriungi Kaunga (deceased)).....PLAINTIFF**

**VERSUS**

**MUTHENGI M'MWATHI MUTHIGU.....1<sup>ST</sup> DEFENDANT**

**THARAKA DISTRICT LAND ADJUDICATION OFFICER...2<sup>ND</sup> DEFENDANT**

**THE HONOURABLE ATTORNEY GENERAL.....3<sup>RD</sup> DEFENDANT**

**RULING**

1. This application is dated **14<sup>th</sup> January, 2019** and seeks orders:

1. That this application because of its nature be certified urgent and the same be dealt with on priority basis.
2. That the honourable court be pleased to order stay of execution of the judgment/decision herein pending the hearing and determination of this application.
3. That the honourable court be pleased to order a temporary stay of execution of the judgment/decree herein pending the hearing and determination of the intended appeal.
4. That the honourable court be pleased to grant such other and or better orders as may meet the ends of justice.

2. The application is buttressed by the applicants supporting affidavit sworn on 14<sup>th</sup> January, 2019 and has the following grounds:

- i) That judgment herein was delivered on 19<sup>th</sup> day of December, 2018.
- ii) That the applicant was dissatisfied and has preferred an appeal to the court of appeal.
- iii) That unless stay of execution of the judgment is ordered the applicants/intended appellants stand to suffer irreparable and substantial loss.
- iv) That the applicant's intended appeal has overwhelming chances of success and unless stay is ordered the outcome of the intended (sic) will be rendered nugatory.
- v) That the applicant/intended appellant is ready and willing to deposit reasonable security.
- vi) That no prejudice will be occasioned the respondent.
- vii) That this application has been made without any undue delay.

3. At the exparte stage, Mr. Mokua, the applicant's advocate, told the court that the applicant had already filed a Notice of Appeal and had

served it upon Mr. Mwanzia, the plaintiff's advocate. He told the court that his client was willing to offer a deposit for security.

4. Having considered the pleadings in this application and the oral submissions made by the applicant's advocate, I issue the following orders:

a) Prayer 2 in the application is allowed subject to the applicant depositing with court as security the sum of **Kshs. One Million (1000,000/= )** within the **next 30 days** failing which the order of stay granted herein will automatically lapse.

b) The applicant is directed to serve the orders issued today by the court upon the respondents **within 14 days of today**.

c) The application will be heard interpartes on **25<sup>th</sup> March, 2019**

5. Costs shall be in the cause.

6. It is so ordered.

Delivered in open Court at Chuka this **16<sup>th</sup> day of January, 2019** in the presence of:

CA: Ndegwa

Mokua for the applicant

**P. M. NJOROGE**

**JUDGE**