



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT**

**AT NAROK**

**ELC MISC APPL. NO. 2 OF 2018**

**FORMERLY NAKURU MISC CIVIL APPL. NO. 238 OF 2014**

**SAMWEL NAIMODU LETEIPA.....APPELLANT/RESPONDENT**

**-VERSUS-**

**JOSEPH LEKISHON KAELO.....RESPONDENT/APPLICANT**

**RULING**

The Application before me is the Notice of Motion dated 3<sup>rd</sup> June, 2016 seeking an order dismissing the Respondent's Application dated 29<sup>th</sup> October, 2014 for want of prosecution. The Application was based on the grounds that the Respondent was granted a stay of execution on 29<sup>th</sup> October, 2014 and he has failed to take any steps to prosecute the Application and the Applicant has suffered prejudice as a result of the Respondent's failure.

In support of the Application the Applicant had filed an affidavit in support of the same and averred that the Respondent has often been granted a stay of execution and he has never taken any steps to prosecute the Application.

I have read the application before me and the submissions filed by the Applicant. From the record, it is clear that the Respondent having obtained a stay of execution, has not undertaken any steps to have his intended appeal and application prosecuted. No reasons have been adduced by him.

I find that the Respondent's actions are prejudicial to the Applicant. The Applicant can't be stopped from enjoying the fruits of his labour.

In view of the above I find that the Application dated 3<sup>rd</sup> June, 2016 is merited and I allow the same and thus dismiss the Respondent's Application dated 29<sup>th</sup> October, 2014 for want of prosecution with costs to the Applicants.

**DATED, SIGNED and DELIVERED in open court at NAROK on this 14<sup>th</sup> day of February, 2019.**

**Mohamed N. Kullow**

**Judge**

**14/2/19**

In the presence of:

CA:Chuma

Mr Lel for the Plaintiff/Applicant

Respondent in person

**Mohamed N. Kullow**

**Judge**

