



**Ajala v Amimo & another (Environment and Land Appeal
E084 of 2025) [2025] KEELC 7202 (KLR) (23 October 2025) (Ruling)**

Neutral citation: [2025] KEELC 7202 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KISUMU
ENVIRONMENT AND LAND APPEAL E084 OF 2025**

**E ASATI, J
OCTOBER 23, 2025**

BETWEEN

LEWNARD OLUOCH AJALA APPELLANT

AND

PAUL AWUOR AMIMO 1ST RESPONDENT

ONUANG'A CO-OPERATIVE SOCIETY 2ND RESPONDENT

(Being an appeal from the ruling of Hon. R. Oanda (SPM) delivered on 18th September, 2025)

RULING

1. The Notice of Motion application dated 23rd September, 2025 seeks for orders that the Honourable court be pleased to stay the execution of the ruling delivered on 18th September, 2025 by the trial court pending the hearing and determination of the Appeal herein and that costs of the application be provided for.
2. The grounds upon which the application is brought are that the 1st Respondent through his agent the 2nd Respondent has already commenced the process of execution of the ruling appealed against to the detriment of the Appellant/Applicant. That the Applicant stands to suffer irreparable loss if the execution proceeds since he stands to lose his investments and cash money. That the application has been brought without delay and in good faith.
3. The application was supported by the contents of the Supporting Affidavit sworn by the Applicant on 23rd September, 2025 and the annexure thereto.
4. The application was first brought before court on 23rd September, 2025 under certificate of urgency and the court gave directions that the application be served upon the Respondents for hearing on 8th October, 2025. On 8th October, 2025 there was no attendance for the Respondents and Counsel for



the Applicant who submitted that the Respondents had been served and an Affidavit of Service filed, urged the court to allow the application as the same was unopposed.

5. The substantive prayer in the application is for an order of stay of execution of the ruling appealed against. A copy of the ruling is annexed to the Supporting Affidavit. Perusal of the ruling shows that it was in respect of a Preliminary Objection, which Preliminary Objection the trial court upheld and struck out the suit for lack of jurisdiction. Costs of the suit were awarded to the Defendant (Respondent herein).
6. The order made by the trial court in the ruling appealed against was for the striking out of the suit. This was a negative order hence incapable of execution, save for recovery of costs. There is no evidence that the process of execution for recovery of the awarded costs has commenced.
7. The grounds for grant of an order of stay of execution as provided in Order 42 Rule 6(2) of the Civil Procedure Rules, 2010 are that the Applicant must demonstrate to the satisfaction of the court that substantial loss may result to him/her unless the order of stay of execution is made. Secondly, the application must be brought without unreasonable delay and that thirdly such security as the court orders for the due performance of such decree or order as may ultimately be binding on the applicant has been given by the applicant.
8. Although the application was brought without unreasonable delay, the other grounds for grant of the orders sought have not been demonstrated.
9. In the circumstances of the case, any loss that the applicant may suffer as claimed in the application will not be as a result of execution of the ruling appealed against.
10. The court finds that the application lacks merit and hereby dismisses it. No order as to costs.

Orders accordingly.

RULING DATED AND SIGNED AT KISUMU, READ VIRTUALLY THIS 23RD DAY OF OCTOBER, 2025 THROUGH MICROSOFT TEAMS ONLINE APPLICATION.

E. ASATI,

JUDGE.

In the presence of:

Maureen: Court Assistant.

No appearance for the appellant/Applicant.

No appearance for the Respondents.

