



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT MERU

ELC APPEAL CASE NO. 9B OF 2019

DANIEL NTOITHA MWERERIA.....APPELLANT/APPLICANT

VERSUS

ISAAC MUKARIA MWERERIARESPONDENT

RULING

1. In the application filed on 15.2.2019, applicant/appellant is seeking for a stay of execution of the judgment delivered on 27.12.2018 in Maua CMCC no. 204/2012, pending the hearing of the appeal.
2. He avers inter-alia that the appeal will be rendered nugatory unless an order of stay is given. The respondent who is in person has opposed the application vide his replying affidavit, filed on 25.2.2019.
3. The respondent is generally claiming entitlement to the suit land through trust.
4. I have considered all the arguments raised herein. I find that respondent is not in occupation of the suit property as he was allegedly evicted in 1994 (see the judgment).
5. It is therefore only fair and just that the status quo pending as at the time of the delivery of judgment before the lower court be maintained to await the outcome of the appeal.
6. In the circumstances, the application dated 13.2.2019 is allowed in the following terms;
 1. **An order of stay of execution of the judgment delivered 27.12.2018 in Maua 204/12 is hereby issued for a period of 1 year.**
 2. The Record of appeal to be filed and served within 60 days failure to which this appeal will stand as dismissed.
 3. Costs of this application will abide those in the appeal.

DATED, SIGNED AND DELIVERED IN OPEN COURT AT MERU THIS 25TH DAY OF APRIL, 2019 IN THE PRESENCE OF:-

C/A: Kananu

Nyamokeri for applicant

Respondent

Applicant

HON. LUCY. N. MBUGUA

ELC JUDGE