



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT MERU

ELC CASE NO. 90 OF 2013 (OS)

GEOFFREY NKONGE MAIRANYI..... PLAINTIFF

VERSUS

THIURU M'RINGERA.....1ST DEFENDANT

TIMONTH KIMATHI MARETE.....2ND DEFENDANT

RULING

1. In the application filed on 20.11.2018, applicant/plaintiff is seeking for an order of stay of execution of the judgment and decree of 8.11.2018 pending appeal.
2. The grounds in support of the application are set out in the body of the application and in his supporting affidavit.
3. He avers that he stands to suffer substantial loss if the stay is not granted. He also contends that he is in possession of the suit land which he has extensively developed.
4. The application is opposed by the respondents who aver that the court is functus officio in this matter. It is further argued that no appeal has been filed and that the intended appeal has no merits.
5. I have considered all the arguments advanced by the parties. I am alive to the fact that where as an aggrieved party in respect of a judgment/decree or order delivered has a right to seek redress in the hierarchal systems of the court, the actual process of appeal is rigorous and entails compiling of the typed proceedings. Thus applicant may need some time to present his appeal before the court of appeal.
6. I have also considered the contents of paragraph 29 of my judgment where by plaintiff's claim on adverse possession failed because of the computation of time whereby the period in question was found to be either 10 years and 9 months or 11 years and 3 months. It was not disputed that plaintiff or rather his son was the one in occupation of the suit land.
7. In such circumstances I find that applicant's prayers are merited. I allow the application in the following terms:
8. An order of stay of the judgment and decree of 8.11.2018 is hereby issued for a period of 8 months from date of delivery of this ruling.
9. Applicant is to pay costs of this application.

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

C/A: Kananu

Karanja holding brief for H. Gitonga for applicant/plaintiff

Kaburu holding brief for Kimathi I. for respondent

Defendants

HON. LUCY. N. MBUGUA

