

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT CHUKA

CHUKA ELC CIVIL APPEAL CASE NO. 06 OF 2018

BENSON MURITHI RITHAA.....APPELLANT

VERSUS

STEPHEN MUTURI NYAGA.....RESPONDENT

RULING

1. This ruling concerns an intended appeal against the judgment of the Hon. J. M. Njoroge, CM, delivered on 4th July, 2018. Without filing a Memorandum of Appeal, the intended appellant filed an application brought to court by way of Notice of Motion seeking stay of execution issued pursuant to the apposite judgment.
2. Pending hearing of the application, and as is required by Order 42 Rule 6 (b) of the Civil Procedure Rules, the applicant was ordered, on 1st August, 2018 to deposit with court a sum of Kshs. Five Hundred Thousand (Kshs.500,000/=) within 14 days FAILING which the stay of execution granted by the court would automatically lapse. He did not comply with the court order.
3. On 20th November, 2018, the original order was varied and the applicant was directed to deposit with court a sum of Kshs. Four Hundred Thousand (Kshs.400,000/=) only within 14 days failing which the stay of execution granted would automatically lapse. The applicant did not comply with this court order.
4. On 16th January, 2019, the applicant had been directed to serve his Memorandum of Appeal upon the intended respondent and he was also ordered to file a record of appeal within 21 days. The parties were ordered to come to court for directions on 3rd April, 2019.
5. On 3rd April, 2019, the parties and their advocates did not come to court. Meanwhile, the file containing the proceedings in the lower court had been annexed to this court's file. I have perused that file. When I juxtapose the apposite proceedings with the serial disobedience of this court's orders, in accordance with section 79B of the Civil Procedure Act, I do certify that there is no sufficient ground for interfering with the decree, part of the decree or order intended to be appealed against.
6. I, therefore, summarily reject the appeal.
7. No costs are awarded.

Delivered in open court at Chuka this 3rd day of April, 2019 in the presence of:

CA: Ndegwa

Parties are not in court

P. M. NJOROGE,

JUDGE.