



REPUBLIC OF KENYA



KENYA LAW
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**In re Estate of Paul Karanja Wanjihia (Deceased) (Family Appeal E005 of 2024)
[2025] KEHC 18635 (KLR) (Family) (18 December 2025) (Ruling)**

Neutral citation: [2025] KEHC 18635 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYANDARUA
FAMILY**

FAMILY APPEAL E005 OF 2024

KW KIARIE, J

DECEMBER 18, 2025

IN THE MATTER OF THE ESTATE OF PAUL KARANJA WANJIHIA- DECEASED

BETWEEN

PETER NJOROGE KAGOTHO APPLICANT

AND

GRACE WANJIRU KARANJA 1ST RESPONDENT

ELIJAH MUREGI KIGOTHO 2ND RESPONDENT

RULING

1. The applicant/intended appellant moved the court by way of a Notice of Motion dated the 15th day of May 2025. The application was brought under Rules 5 (2) (b), 39 (b) & 47 of the Court of Appeal Rules, Rule 73 of the Probate and Administration Rules, and Article 159 (2) of *the Constitution* of Kenya. He is seeking the following orders:
 - a. This application is to be certified as urgent and heard on a priority basis.
 - b. This honourable court be pleased to stay the executions of the judgment delivered on the 7th day of May 2025.
 - c. This honourable court be pleased to grant leave to the applicant to appeal against the judgment dated the 7th day of May, 2025, to the Court of Appeal.
 - d. That the cost of the application be in the cause.
2. The application was premised on the following grounds:



- a. The applicant is aggrieved by the judgment delivered in this court on 7th May, 2025 and prays for another opinion for the court of appeal.
 - b. There is no automatic right of appeal from the decisions of the High Court to the court of appeal on probate and administration matters and hence leave is mandatory before the court appeal is filed.
 - c. The applicant has an arguable appeal as demonstrated in the draft memorandum of appeal and it is in the interest of justice that the applicant be granted leave to appeal by this honourable court to appeal against this honourable court's judgment that was delivered on 7th May, 2025.
 - d. The intended appellant/applicant undertakes to expeditiously prosecute the intended appeal in a timely manner so as not to prejudice the respondents.
 - e. That unless the orders are granted, the applicant stands to suffer irreparable damage.
 - f. It is in the interests of justice that the applicants make this application.
3. The application was opposed on the following grounds:
- a. That the applicant's application is fatally defective, incompetent, bad in law, and a clear abuse of the process of the court, and it is only meritorious to defeat and delay this matter and request this honourable court to dismiss it at the earliest opportunity.
 - b. That the application has not met the threshold of granting the orders sought.
 - c. That the application is a decoy and a delaying tactic by the applicant so that he can illegally and unlawfully continue interfering with the estate of the deceased.
 - d. That the 2nd respondent has disposed of a part of that subject parcel of land to other parties in order to defeat the decree of this honourable court.
 - e. That no prejudice will be caused to the applicant if the orders are not granted.
 - f. That the actions of the applicant herein and the intended appeal are only driven by unbridled greed, as he has always brought discord within my family with the aim of benefiting more than any other child, he has on several occasions lodged disputes with the provincial administration where he demanded a share of this inheritance during the lifetime of my deceased.
4. It is trite law that an appeal does not operate as a stay of execution or proceedings. For a party seeking the court's intervention to preserve the status quo, it must satisfy the court that the applicable principles have been met. Order 42 Rule 6(2) of the Civil Procedure Rules provides as follows:
- No order for stay of execution shall be made under subrule (1) unless—
- a. the court is satisfied that substantial loss may result to the applicant unless the order is made and that the application has been made without unreasonable delay; and
 - b. such security as the court orders for the due performance of such decree or order as may ultimately be binding on him has been given by the applicant.
5. The case concerns the estate of Paul Karanja Wanjihia. I have reviewed the opposing statements. If the court does not stay the execution of the contested judgment, the appeal will become academic. To serve justice, it is fair to issue the requested orders pending the appeal's decision.



6. The applicant is also granted leave to file the intended appeal within 30 days of this ruling. Failure to do so will result in the stay orders lapsing.
7. This being a family dispute, each party will bear its own costs.

DELIVERED AND SIGNED AT NYANDARUA, THIS 18TH DAY OF DECEMBER 2025

KIARIE WAWERU KIARIE

JUDGE

