



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT MERU**

**ELC APPEAL NO. 47 OF 2019**

**JACKSON M'RINYIRU MBUI.....APPELLANT**

**VERSUS**

**SILAS M'RINYIRU MBUI.....RESPONDENT**

**RULING**

1. Vide the application dated 25.3.2019, appellant/applicant is seeking for a stay of execution of the judgment delivered in Nkubu PMCC NO. 9 of 2012 pending appeal herein. Applicant avers that he stands to be evicted if a stay is not granted and he has filed an affidavit on 25.3.2016 in support of this averment.
2. The respondent has opposed the application vide his replying affidavit filed on 6.5.2019 where he avers that he is the registered owner of the suit land Abogeta/L-Kiungone/809, which land the appellant had entered without permission of respondent and he had started to damage the property therein and to chase away the respondent's servants.
3. I have considered all the arguments raised herein. I have also read the judgment delivered in Nkubu PMCC NO. 9 of 2012. It has emerged that appellant is a son of the respondent.
4. The respondent is a 97 years old man. He ought to spend his sunset years in peace. It is not as if the respondent is alienating the suit land. Appellant has apparently been given another piece of land of which he used to utilize but he didn't want it.
5. This is not a situation where applicant has no options in terms of having a place to call home. He has apparently been given parcel no. Abogeta/U-Kiringa/1283.
6. On account of the advanced age of the respondent, I hesitate to allow the application. The application is dismissed with no orders as to costs.

**DATED, SIGNED AND DELIVERED IN OPEN COURT AT MERU THIS DAY OF 22<sup>ND</sup> MAY, 2019 IN THE PRESENCE OF:-**

**C/A: Kananu**

Kiogora for appellant/applicant

Maitai D for respondent

Applicant

Respondent

**HON. LUCY. N. MBUGUA**

**ELC JUDGE**