

**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT AT KISUMU**  
**ELCLA NO. E089 O 2024**

NURA ALI RAMADHANI..... 1<sup>ST</sup> APPELLANT

PAUL OMONDI OGENDO ..... 2<sup>ND</sup> APPELLANT

VERSUS

PAMELLA AUMA ODERO ..... 1<sup>ST</sup> RESPONDENT

MOSES CALVINS OTIENO ODERO ..... 2<sup>ND</sup> RESPONDENT

SOFIA ANYANGO ODERO ..... 3<sup>RD</sup> RESPONDENT

GRACE AWUOR ODERO ..... 4<sup>TH</sup> RESPONDENT

THE LANDS REGISTRAR KISUMU ..... 5<sup>TH</sup> RESPONDENT

THE ATTORNEY GENERAL ..... 6<sup>TH</sup> RESPONDENT

***(Being an appeal from the decision of the Chief Magistrate's Court at Kisumu delivered on the 16<sup>th</sup> of October, 2024 by Hon. D. O. Onyango (CM) in MC ELC NO E073 OF 2022 at Kisumu)***

BETWEEN

PAMELLA AUMA ODERO ..... 1<sup>ST</sup> PLAINTIFF

MOSES CALVINS OTIENO ODERO ..... 2<sup>ND</sup> PLAINTIFF

SOFIA ANYANGO ODERO ..... 3<sup>RD</sup> PLAINTIFF

GRACE AWUOR ODERO ..... 4<sup>TH</sup> PLAINTIFF

VERSUS

PAUL OMONDI OGENDO ..... 1<sup>ST</sup> DEFENDANT

NURA ALI RAMADHANI..... 2<sup>ND</sup> DEFENDANT

THE LANDS REGISTRAR KISUMU ..... 3<sup>RD</sup> DEFENDANT

THE ATTORNEY GENERAL ..... 4<sup>TH</sup> DEFENDANT

**RULING**

This ruling is in respect of the Notice of Motion application dated 28<sup>th</sup> October 2025 brought by the appellant seeking for orders that; -

- 1) The court be pleased to grant leave for the firm of Conrad Law Advocates LP to come on record for the appellant/applicant in place of Ogendo Mwidau Advocates.
- 2) The court be pleased to set aside its order of 29<sup>th</sup> September 2025 dismissing the appeal and the appeal be reinstated.
- 3) The court be pleased to grant an order of stay of execution of the judgment and decree issued on 16<sup>th</sup> October 2024 by Hon. D.O Onyango (CM) pending the hearing and determination of the appeal.
- 4) The appeal be set down for hearing
- 5) Costs be in the cause.

The application was supported by the averments in the Supporting Affidavit sworn on 28<sup>th</sup> October 2025.

The application was opposed vide the grounds contained in the Replying Affidavit sworn by the 1<sup>st</sup> Respondent on 18<sup>th</sup> November 2025.

I note that the prayer for leave for the change of advocates was not opposed.

The appellant blames his erstwhile Advocates for failing to inform him of the date that the appeal came up for directions and for failing to attend court for the same. He pleaded that the mistake

of Counsel ought not be visited on him. He urged the court to be guided by article 50(1) of the Constitution of Kenya 2010 and exercise its discretion to accord him an opportunity to be heard.

The respondent's position is that the application is frivolous, based on falsehoods, mal fides lacking in bona fides and is otherwise an abuse of the process of the court. That the applicants' Counsel had notice of the hearing date. That setting aside the judgment would prejudice the Respondents as they would have to wait to enjoy the fruits of the judgement. That the applicant was duty bound and had a role to play in the course of justice to follow up with his former advocates and the court and to ensure apt and timely prosecution of matters to enable the court achieve the overriding objectives. That the appellant was notified of the dismissal of the appeal on 21<sup>st</sup> October 2025 vide a letter giving him 7 days to vacate the land.

Vide the Supplementary Affidavit sworn by the 1<sup>st</sup> respondent on 21<sup>st</sup> November 2025, the respondent averred that prayers 4 and 5 of the Notice of Motion are untenable and overtaken by events since the respondents had already executed the decree of the trial court by having the suit land Kisumu/Wathorego/1219 revert to the name of the deceased, Henry Odero Ochila.

To demonstrate this, the respondent attached to the Supplementary Affidavit a copy of certificate of official search in respect of land parcel No. Kisumu/Wathorego/1219 dated 23<sup>rd</sup>

October 2023 showing that the land was registered in the name of Henry Odero Ochila. This was not disputed by the applicant.

The application was heard by way of written submissions.

I have considered the applications, the grounds of opposition thereto and the submissions. It is true that the applicant had an advocate on record as at the date when the dismissal order was made. The advocate who had been served with the Mention Notice for directions on the appeal failed to attend court. The applicants' position is that they were never notified of the mention date.

I have considered the applicants' desire to be heard on the appeal, the explanation for non-attendance and the fact that the application was filed timeously and find it to be in the interest of justice to lift the dismissal order and reinstate the appeal and allow the appellant opportunity to prosecute the appeal.

Regarding the prayer for stay of execution, the respondents have demonstrated vide the certificate of official search dated 23/10/2025 annexed to the Replying Affidavit that the decree has partly been executed by reverting registration of the suit land to Henry Odero Ochila, deceased. The prayer for an order of stay of execution has therefore been overtaken by events.

In the premises, the application is hereby allowed only in terms of prayers 2 and 3 thereof as follows:

- i. Leave is granted for the firm of Conrad Law Advocates LP to come on record for the appellant/applicant in place of Ogendo Mwidau Advocates.
- ii. The court order of 29<sup>th</sup> September 2025 herein dismissing the appeal is hereby set aside and the appeal reinstated to hearing.
- iii. Costs of the application are awarded to the respondents.

Orders accordingly.

**Ruling dated and signed at Kisumu, delivered virtually this 20<sup>th</sup> day of January 2026.**

**E. ASATI,  
JUDGE.**

**In the presence of:**

Court Assistant.

Mingo for the Appellants/applicants

Ochieng h/b for Moraa Otero for the Respondents.