

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT
AT ELDORET
ELC APPEAL NO. E014 OF 2024

REBECCA

JEPTANUI

CHEPNG'OK

.....APPELLANT/RESPONDENT

-VERSUS-

MOSES KIBET METTO & JOSHUA KIPKEMBOI METTO

(Sued as the Administrators of the
Estate of the late ELIZABETH

JEPCHOGE

SIRMA

(Deceased).....**RESPONDENTS/APPLICANT**

RULING

1The Respondents (hereinafter referred to as "**the Applicants**") did file a Notice of Motion dated 24.06.2025(hereinafter referred to as "**the present Application**") against the Appellant (hereinafter referred to as "**the Respondent**") seeking the following Orders: -

- a) **THAT the Application be certified urgent and service be dispensed with and heard ex-parte in the first instance. (SPENT)**
- b) **THAT pending the inter-parte hearing and determination of this Application, the Honourable Court be pleased to stay the execution of the Judgement delivered on the 19.06.2025 in its entirety and further proceedings thereto.**
- c) **THAT pending the hearing and determination of the intended appeal, the Honourable Court be pleased to stay the execution of the Judgement delivered on the 19.06.2025 in its entirety and further proceedings thereto.**

d) THAT the costs to this Application be in the cause.

- 2 The grounds in support of the prayers sought are premised in the body of the present Application as well as the Supporting Affidavit attached and can be summarized as follows; -
- i. The Applicants did state that this Court did pronounce a Judgement on 19.06.2025 in determination of the Memorandum of Appeal dated 05.04.2024.
 - ii. In the Judgement pronounced on the 19.06.2025, the Court hereby made the following Orders amongst others; -
 - a) That Land Registrar Uasin Gishu County to rectify the register and/or green card of the suit property known as L.R. NO. ELDORET MUNICIPALITY BLOCK 14/593, by removing, cancelling and/or deleting the names of the Respondents (Applicant in the present Application) from the entries recorded on 23.08.2023 and restore the name of the appellant as the lawful owner of the suit property as per the entry made on 07.06.2006.
 - b) The Respondents (Applicant in the present Application) herein were also ordered and/or directed to surrender back the canceled title deed of the suit property issued on 23.08.2023 for destruction by the Land Registrar, Uasin Gishu County.
 - iii. The Applicants being aggrieved by the Judgement pronounced 19.06.2025 intend to file an Appeal to the Court of Appeal.
 - iv. However, pending the hearing and determination of the Intended Appeal, the Applicants sought for an Order of Stay of the Judgement pronounced on the 19.06.2025 on the following facts; -

- a) The Applicants stand to suffer substantial loss if the Orders of this Court are implemented as directed by the Judgement pronounced on the 19.06.2025.
 - b) The Applicants' intended Appeal is one which is arguable and has a high chance of success.
 - c) If the Judgement and/or Decree issued by this Court on the 19.06.2025 is not stayed, then the Appeal will be rendered nugatory by the time it is being heard and determined.
 - d) The Applicants did plead that the present Application had been brought without undue delay.
 - e) Lastly, in the interest of justice, the Orders sought in the present Application should be granted by this Court.
3. The present Application was thereafter served on the Respondent herein.
 4. The Respondent did oppose the present Application by filing a Replying Affidavit dated 28.07.2025.
 5. The Respondent did plead the following facts in opposition to the present Application; -
 - a) The Respondent did confirm that indeed a Judgement was pronounced by this Court on the 19.06.2025 in determining the Memorandum of Appeal dated 05.04.2024.
 - b) The Court did grant various orders including those pointed out by the Applicants in the present Application.
 - c) However, the Orders issued in the Judgement dated 19.06.2025 had already been implemented and/or

executed by the County Land Registrar, Uasin Gishu on the 07.07.2025.

- d) In addition to the above, the Respondents did plead that the suit property was in their occupation and use since the year 2006 until the year 2025 when the Applicants had unlawfully and illegally evicted her from the suit property.
 - e) Nevertheless, even after the Respondents eviction from the suit property, the Applicants herein never took possession and/or occupy the suit property.
 - f) In essence therefore, the Respondent did state that there was no loss occasioned to the Applicants herein by the orders issued in the Judgement pronounced on the 19.06.2025 as alleged by the Applicants.
 - g) The Respondent did plead that after the Judgement pronounced on the 19.06.2025, she did secure possession and use of the suit property which had been interrupted by the Applicants unlawful acts.
 - h) The Respondent did state that there is no justification as to why she should not enjoy the fruits of their judgement pronounced on the 19.06.2025.
 - i) In conclusion, the Respondent did content that the present Application had been overtaken by events and was in fact an abuse of the Court process hence should be dismissed with costs.
6. The Respondent's Replying Affidavit was duly served on the Applicants who did file a Supplementary Affidavit dated 26.11.2025.
7. In the Supplementary Affidavit dated 26.11.2025, the Applicants did state as follows; -

- a) The allegation that the present Application had been overtaken by events was not true.
 - b) According to the Applicants, if the County Land Registrar, Uasin Gishu had indeed cancelled their ownership documents as alleged by the Respondent, then such action was illegal and unlawful because the Judgement pronounced on the 19.06.2025 required that the ownership documents in their possession to be returned to the County Land Registrar, Uasin Gishu before the cancellation is effected.
 - c) The Applicants did state that the original ownership documents of the suit property had been misplaced and a Report made at Eldoret Police station vide OB.NO.67/01/07/25.
 - d) The Applicants further pleaded that in terms of possession, the suit property was not occupied by the Respondent as alleged but was in their possession.
 - e) In conclusion, the Applicant did seek this Court to exercise its discretion and allow the present Application as sought in the interest of justice.
8. The Court upon service of the Supplementary Affidavit did direct that the present Application would be heard by way of written submissions.
 9. The Applicants did file their submissions dated 26.11.2025 together with the relevant authorities while there were no submissions by the Respondent at the time of writing this Ruling.
 10. The Court has carefully considered the present Application, the Response by the Respondents, the Supplementary Affidavit and the submissions filed and identifies the following issues for determination; -

ISSUE NO. 1 - WHETHER THE PRESENT APPLICATION HAS BEEN OVERTAKEN BY EVENTS?

ISSUE NO. 2- IF NOT, HAS THE APPLICANT SATISFIED THE INGREDIENTS OF GRANTING A STAY OF THE JUDGEMENT PRONOUNCED ON THE 19.06.2025?

ISSUE NO. 3 WHETHER THE PRESENT APPLICATION IS MERITED OR NOT?

ISSUE NO. 4- WHO SHALL BEAR THE COSTS OF THE PRESENT APPLICATION?

11. The Court having identified the issues above for determination, the same will now be discussed below; -

ISSUE NO. 1 - WHETHER THE PRESENT APPLICATION HAS BEEN OVERTAKEN BY EVENTS?

12. The first issue for determination is whether or not the present Application has been overtaken by events.
13. According to the Respondent, the Judgement pronounced on the 19.06.2025 and the Decree issued on the 27.06.2025 were executed and/or implemented on the 07.07.2025 by the County Land Registrar, Uasin Gishu.
14. As such, the suit property is now registered in the name of the Respondent and there is nothing more that requires to be done by the County Land Registrar, Uasin Gishu in terms of the Judgement pronounced on 19.06.2025 and Decree issued on the 27.06.2025.
15. The Applicants on the other hand were of the considered view that the Judgement pronounced on the 19.06.2025 and the Decree issued on the 27.06.2025 were not yet executed and/or implemented by the County Land Registrar, Uasin Gishu.

16. The Applicants did plead that in the alternative, if the Judgement pronounced on the 19.06.2025 and the Decree issued on the 27.06.2025 has indeed been implemented and/or executed by the County Land Registrar, Uasin Gishu, then such an action was illegal and unlawful for the reason that the Court had ordered the Applicants to surrender back their ownership documents before cancellation would be effected.
17. To be able to make a finding on whether the present Application has been overtaken by events or not, the Court needs to be guided by the Judgement pronounced on the 19.06.2025 and the Decree issued on the 27.06.2025.
18. The only issue for determination under this issue is whether or not the Orders issued in the Judgement pronounced on the 19.06.2025 and the Decree issued on the 27.06.2025 have been executed and/or implemented by the relevant person or office bestowed with such powers.
19. According to the Judgement pronounced on 19.06.2025 and the Decree issued on the 27.06.2025, the Orders that were to be implemented and/or executed were Order No. 6 and Order No. 7.
20. In Order No. 6 of the Judgement pronounced on the 19.06.2025, the Court did direct the County Land Registrar, Uasin Gishu to rectify the Register or Green Card of the suit property by deleting the names of the Applicants recorded on the 23.08.2023 and reinstating the name of the Respondent as per the entry made on the 07.06.2006 within 14 days from the date of the Judgement.
21. The Respondent in the Replying Affidavit dated 28.07.2025 did present a Certified Copy of the Register or Green Card of the suit property.
22. Based on the Certified Copy of the Register or the Green Card of the suit property issued on the 11.07.2025, it is clear that

the Decree issued on the 27.06.2025 was recorded by the County Land Registrar, Uasin Gishu on the 07.07.2025.

23. The effect of the registration of the Decree issued on the 27.06.2025 on the 07.07.2025 was that the Judgement pronounced on the 19.06.2025 had been executed and/or implemented fully.
24. The Applicants in their Supplementary Affidavit state that if the County Land Registrar, Uasin Gishu did implement the Judgement pronounced on the 19.06.2025 and the Decree issued on the 27.06.2025, then such an action was illegal and unlawful and therefore should be reversed.
25. According to the Applicants, Order No. 6 of the Judgement pronounced on the 19.06.2025 and the Decree issued on the 27.06.2025 could not be executed and/or implemented until upon the surrender of the title deed in their names as provided under Order 7 of the Judgement pronounced on the 19.06.2025 and the Decree issued on the 27.06.2025.
26. Unfortunately, this is a serious misinterpretation of Order No. 7 of the Judgement pronounced on the 19.06.2025 and the Decree issued on the 27.06.2025.
27. To begin with, the execution and/or implementation of Order No. 6 in the Judgement pronounced on the 19.06.2025 and the Decree issued on the 27.07.2025 was not dependent on Order No. 7 of the Judgement pronounced on the 19.06.2025 and the Decree issued on the 27.06.2025.
28. The County Land Registrar, Uasin Gishu was directed by this Court to execute or implement Order no. 6 within 14 days from the date of Judgement which is 19.06.2025 without reference to the ownership documents in the possession the Applicant.

29. The main reason why the Applicants were ordered to surrender back the ownership documents of the suit property to the County Land Registrar, Uasin Gishu was for the purpose of destruction.
30. In essence, this Court is of the considered view and finding that the present Application has been overtaken by events and the prayers sought herein cannot be granted.

ISSUE NO. 2- IF NOT, HAS THE APPLICANT SATISFIED THE INGREDIENTS OF GRANTING A STAY OF THE JUDGEMENT PRONOUNCED ON THE 19.06.2025?

31. In view of the fact that the present Application has been overtaken by events, the consideration of the present application on merit is an exercise in futility as the ingredients of granting a stay of the Judgement pronounced on the 19.06.2025 will not be satisfied.

ISSUE NO. 3-WHETHER THE PRESENT APPLICATION IS MERITED OR NOT?

32. Based on the findings in Issue No. 1 and 2, the present Application is not merited and cannot be granted.

ISSUE NO. 4 - WHO SHALL BEAR THE COSTS OF THE APPLICATION?

33. The general rule is that costs follow the event unless the Court directs otherwise.
34. The present Application having been found to be unmerited, the Applicant is condemned to pay costs to the Respondent herein.

CONCLUSION

35. In conclusion, the Court hereby makes the following Orders in determination of the present Application; -

A. THE APPLICATION DATED 24.06.2025 IS NOT MERITED AND IS HEREBY DISMISSED.

B. THE APPLICANTS ARE CONDEMNED TO PAY COSTS OF THE PRESENT APPLICATION TO THE RESPONDENT.

DATED, SIGNED and DELIVERED in ELDORET this 29TH DAY OF JANUARY, 2026.

**EMMANUEL M.WASHE
JUDGE**

IN THE PRESENCE OF:

Court Assistant: Brian

Counsel for the Applicant: Ms. Nasongo holding brief for Mr. Yego

Counsel for the Respondent: Ms. Moronge holding brief for Mr. Warigi