

**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT AT VOI**  
**ELC APPEAL NO. E021 OF 2025**

**PRISCA MSABAA (Suing on her own behalf and on behalf  
of the female children of FELIX MSABAA).....**  
**.....APPELLANT**

**=VERSUS=**

**JOHN                    K.                    MSABAA.....**  
**.....RESPONDENT**

**RULING**

1. This ruling is in respect to the Appellant's application dated 14th November 2025 which seeks a stay of execution pending the hearing and determination of this appeal against the judgment delivered by Hon. T. N. Sinkiyian, PM on 27th October, 2025. The said application is premised on the grounds on its face and the supporting affidavit of Priscah Wakesho Msabaa sworn on 14th November 2025.
2. The application was opposed by the Respondent vide a Replying Affidavit sworn by John Kimbio Msabaa on 15th December 2025.

3. When the matter came up for hearing of the said application, Learned Counsel Mr. Chaka made oral submissions on behalf of the Appellant/Applicant while Learned Counsel Mr. Mkomba holding brief for Mr. Mutugi made oral submissions on behalf of the Respondent.
4. Having considered the said application, rival affidavits filed and oral submissions made by Counsel for the Appellant and the Respondent, the main issue for determination, is whether the said application is merited to warrant the grant of the orders sought.
5. A perusal of the said judgment shows that the Appellant's suit before the trial court was dismissed and was in favour of the Respondent herein. The Appellant was seeking for various reliefs including declaration of ownership, permanent injunction, damages for trespass and costs.
6. In the circumstances and considering that the trial court dismissed the Appellant's suit, the order of stay of execution against the said judgment is untenable. There are no orders that were issued by the trial court capable of being stayed. This court is unable to grant the same. The

Appellant appears to be seeking to stay negative court order after the suit had been dismissed.

7. Consequently, the application dated 14th November 2025 is unmerited and the same is dismissed with no orders as to costs.

8. Having dismissed the said application and considering that the Appeal is still pending, The Appellant is hereby directed to compile, file and serve the Record of Appeal within 30 days from today.

9. The matter shall be mentioned on 17th March 2026 for further directions.

It is so ordered.

**Dated, Signed and Delivered in open court at Voi this 4<sup>th</sup> day of February, 2026.**

**E. K. WABWOTO  
JUDGE**

**In the presence of: -**

**Mr. Mkomba holding brief for Mr. Mutugi for**

**Respondent.**

**Mr. Chaka for Appellant.**

**Court Assistant: Mary Ngoira.**