



REPUBLIC OF KENYA



**KENYA LAW**  
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**Guchu & 3 others v Kamau (Suing as the Personal Administrator  
of Antony Kamau Njuguna) (Environment and Land Appeal  
E010 of 2023) [2026] KEELC 629 (KLR) (11 February 2026) (Ruling)**

Neutral citation: [2026] KEELC 629 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT MURANGA  
ENVIRONMENT AND LAND APPEAL E010 OF 2023  
MN GICHERU, J  
FEBRUARY 11, 2026**

**BETWEEN**

**PETER GUCHU ..... 1<sup>ST</sup> APPELLANT  
KAGAA FARMERS CO-OPERATIVE SOCIETY LTD ..... 2<sup>ND</sup> APPELLANT  
THE LAND REGISTRAR THIKA ..... 3<sup>RD</sup> APPELLANT  
THE HONOURABLE ATTORNEY GENERAL ..... 4<sup>TH</sup> APPELLANT**

**AND**

**SEBASTIAN CHEGE KAMAU (SUIING AS THE PERSONAL ADMINISTRATOR  
OF ANTONY KAMAU NJUGUNA) ..... RESPONDENT**

**RULING**

1. This ruling is on the notice of motion dated 11-3-2025. The motion which is brought under Sections 1A, 1B , 3A, 77, 78 and 79 of the [Civil Procedure Act](#) and Order 42 rules 6, 43 and 51 of the Civil Procedure Rules seeks the following residual orders.
  3. Stay of execution of the judgment and decree dated 20-2-2025.
  6. An order of status quo on the suit land which is Mitubiri/Thuthua/Block 1(Kagaa-Kabuku)464.
2. The motion is supported by an affidavit of the Applicant dated 11-3-2025. The main ground for seeking stay of execution is that the Applicant has constructed a matrimonial house and has been in occupation of the suit land for 34 years and his intended appeal to the Court of Appeal will be rendered nugatory.



3. In his replying affidavit, the Respondent has not said anything about the Applicants' occupation of the suit land.
4. I have carefully considered the motion dated 11-3-2025 in its entirety including the affidavits by both sides as well as the record. I find that the motion has no merit for the following reasons.

Firstly, the Appellant has not proved that he stands to suffer substantial loss. I am not convinced that the Applicant has a matrimonial house on the suit land. In his pleadings in the lower Court, there was no mention of such a house. During the trial in the lower Court, there was no mention of such a house. Secondly in the current application, there is no photograph of the so called matrimonial house on the suit land or even a single structure. The issue of a matrimonial house is something that has abruptly been raised in the current motion. It was not part of the Applicant's case from the beginning.

Before issuing an order for stay of execution, the Court must be satisfied that the Applicant stands to suffer substantial loss unless the order for stay is allowed and the pending appeal will therefore be rendered nugatory. This is as per Order 42 rule 6(2) of the Civil Procedure Rules which 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 the application has been made without unreasonable delay; and
- b. Such security as the Court orders for due performance of such decree or order as may ultimately be binding on him has been given by the Applicant.

The above three conditions must all exist before an application such as the one sought by the Applicant can be allowed.

In this case, the Applicant has not only failed to prove substantial loss but he has also failed to offer any security for the due performance of the decree. The only condition that he has satisfied is the one of filing the application on time. Since the other two conditions remain unsatisfied his motion cannot be allowed at all. Consequently, I dismiss it with costs to the Respondent.

It is so ordered.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT MURANG'A THIS 11<sup>TH</sup> DAY OF FEBRUARY, 2026.**

**M.N. GICHERU JUDGE.**

Delivered online in the presence of; -

Court Assistant – Mwangi Njonjo

Appellant's Counsel – Absent

1<sup>st</sup> Respondents Counsel – Mr Wachira

