



**Njache v Lotapash (Environment and Land Case 326 of 2017)  
[2026] KEELC 1392 (KLR) (3 March 2026) (Ruling)**

Neutral citation: [2026] KEELC 1392 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NYAHURURU  
ENVIRONMENT AND LAND CASE 326 OF 2017**

**LN MBUGUA, J  
MARCH 3, 2026**

**BETWEEN**

**HUMPHREY MBUGUA NJACHE ..... PLAINTIFF**

**AND**

**SITONIK OLE LOTAPASH ..... DEFENDANT**

**RULING**

1. Judgment herein was delivered on 11.2.2025 in favour of the Plaintiff. The defendant filed an application dated 13.5.2025 seeking orders inter-alia, to set aside the aforementioned judgment of which the said application was dismissed vide a ruling delivered on 9.10.2025. Meanwhile, the Plaintiff filed an application dated 13.8.2025 seeking orders of eviction of the Defendants from the suit land.
2. On 9.10.2025, the Court gave directions on the prosecution of the application dated 13.8.2025 whereby parties were to file and exchange submissions. The matter came up on 4.2.2026 when counsel for the Defendant made an oral application for stay of proceedings on the basis that they have filed an application dated 28.1.2026 at the Court of Appeal case no E015 of 2026 seeking orders for stay of execution and proceedings in this matter. Relying on the case of Butt v Rent restriction Tribunal, the Defendant argues that for proper dispensation of justice, the court should allow the oral application as the Court of Appeal is seized of the matter.
3. In opposition thereof, the Plaintiff argues that there is no Court of Appeal order staying the proceedings herein, thus the application amounts to wastage of judicial time.
4. I have considered the arguments relating to the oral application for stay of proceedings herein and I have also considered the record of the court. In particular, this court has considered the proceedings of 9.10.2025 where it was brought to the attention of the court that the Defendant had filed an application at the Court of Appeal Nakuru in E50 of 2025 where the Defendant was apparently seeking extension of time to file a Notice of Appeal against the Judgment of this court delivered



on 11.2.2025. On 4.2.2026, the Defendant was silent on the fate of the said application, instead, he informed the court that they had filed a Memorandum of Appeal, a Record of Appeal as well as an application dated 28.1.2026 in E015 OF 2026 at the Court of Appeal.

5. This court declines the invitation made by the Defendant to interrogate the nugatory aspect of the appeal as stated in *Butt v Rent Restriction Tribunal* in view of the fact that, that is an issue already before the Court of Appeal.

1. However, it is quite telling that the Defendants were moving to the Court of Appeal on 28.1.2026 knowing very well that directions on the prosecution of the application dated 13.8.2025 had been given 3 months earlier on 9.10.2025. That being the case and there being no orders from the Court of Appeal staying the proceedings herein, I give directions as follows; 1) The oral application made by the defendant on 4.2.2026 for stay of these proceedings is hereby declined. 2) The court will however not hesitate to stay the proceedings once such an order is issued from the Court of Appeal. 3) The application dated 13.8.2025 is to be prosecuted to its logical conclusion.

**DATED, SIGNED AND DELIVERED AT NYAHURURU THIS 3RD DAY OF MARCH, 2026 THROUGH MICROSOFT TEAMS.**

**LUCY N. MBUGUA**

**JUDGE**

In the presence of:

Kinyanjui Kimani for the plaintiff

Wakhisi for the defendant

Vanessa C/A

