



**Ondu v Ogutu & another (Environmental and Land Originating Summons
E002 of 2022) [2026] KEELC 1352 (KLR) (5 March 2026) (Ruling)**

Neutral citation: [2026] KEELC 1352 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KISUMU
ENVIRONMENTAL AND LAND ORIGINATING SUMMONS E002 OF 2022**

E ASATI, J

MARCH 5, 2026

BETWEEN

MICHAEL OMOLO ONDUI PLAINTIFF

AND

JANET ODWAR OGUTU RESPONDENT

AND

CARILUS JUMA OMENYA INTERESTED PARTY

RULING

1. The Notice of Motion application dated 24th November, 2025, came up for hearing on 27th February, 2026. There was no attendance by the Respondents, who had also not filed any response to the application.
2. Affidavit of service sworn on 3rd March 2026 by Bruce O. Odeny Advocate, showed that the Respondents had, on 8th December 2025, been served with the application and the directions issued by the court on 2nd December 2025.
3. Counsel for the Applicant urged the court to allow the application as it was unopposed.
4. The application, expressed to be brought pursuant to the provisions of Order 42 Rule 6 Civil Procedure Rules and sections 1A, 1B, and 3A of the *Civil Procedure Act*, sought for an order of stay of execution of the judgment delivered herein on 27th October, 2025, pending hearing and determination of an appeal to the Court of Appeal.
5. I have considered the application and the grounds in support thereof. The Applicant has annexed to the Affidavit in Support of the application a copy of Notice of Appeal to show that he has commenced the process of appealing. The applicant avers that the judgment which directed that he transfers the



suit lands in favour of the respondents may be executed at the expiry of the 90 days granted by the court, in which case the appeal will be rendered nugatory.

6. As the application is not opposed, the same is hereby allowed as follows

- i. An order of stay of execution of the judgment herein dated 27th October 2025 is hereby granted pending the hearing and determination of the appeal to the Court of Appeal on condition that the applicant deposits in court a sum of Kshs 200, 000/- (Kenya shillings two hundred thousand only) as security pursuant to the provisions of Order 42 Rule 2 (b) Civil procedure Rules, within 45 days hereof, failing which the stay of execution order herein granted shall lapse.
- ii. Each party to bear its own costs of the application.

Orders accordingly.

RULING DATED AND SIGNED AT KISUMU, READ THIS 5TH DAY OF MARCH, 2026, VIRTUALLY THROUGH MICROSOFT TEAMS ONLINE APPLICATION.

E. ASATI,

JUDGE.

In the presence of:

Maureen: Court Assistant.

Akinyi for the Applicant.

No appearance for the Respondents.

