

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT KISUMU

ELC LAND CASE NO. E043 OF 2023

MONICA AKINYI AKUMU 1ST APPELLANT/APPLICANT

TOM MBOYA AGUMBI 2ND APPELLANT/APPLICANT

SAMSON NYALIK ALING 3RD APPELLANT/APPLICANT

VERSUS

JOSHUA ODINGO AKUMU1ST RESPONDENT

THE COUNTY LAND REGISTRAR, KISUMU..... 2ND RESPONDENT

THE HON. ATTORNEY GENERAL 3RD RESPONDENT

R U L I N G

The Notice of Motion dated 23rd January, 2026, seeks orders that;

- (a) Leave be granted to the Appellant to appeal out of time against the judgment and decree of Honourable V. Adhiambo (Senior Resident Magistrate) in KISUMU MC ELC NO. E019 OF 2024 delivered on 20th May, 2024.
- (b) In the alternative, the appeal herein and/or Memorandum of Appeal be deemed as duly filed and served.
- (c) Pending the hearing and determination of the appeal, there be stay of execution of the judgment and decree of

Hon. V. Adhiambo (Senior Resident Magistrate) in KISUMU
MC ELC NO. E019 OF 2024 delivered on 20th May, 2024.

(d) The cost of the application be provided for.

The application was not opposed. Affidavit of service sworn by Bruce O. Odeny, Advocate on 6th February, 2026, shows that the Respondent was served with the application on 28th January, 2026 via email.

The substantive orders sought are leave to file an appeal out of time and stay of execution of the judgment of the trial court.

I have considered the application and the annexures to the Supporting Affidavit, particularly the consent dated 3rd June, 2025, signed between the advocates previously acting for the Applicant and the firm of Bruce O. Odeny & Company Advocates now on record for the Applicant/Appellant.

The appeal herein was filed on 9th June, 2025, by which time Counsel had been granted consent to take over the conduct of the matter in terms of Order 9 Rule 9 Civil Procedure Rules.

I find that the prayer has merit and hereby allow it. The time for filing the appeal is hereby enlarged, and the present appeal is deemed to have been filed within time.

Regarding the prayer for stay of execution, I note that an earlier application was struck out for lack of compliance with Order 9 Rule 9 of the Civil Procedure Rules. The applicants aver that the judgment appealed against directed the cancellation of titles held by them. I find that an order of stay of execution is merited so as to preserve the status of the suit lands. The court hereby grants an order of stay of execution of the judgment of the trial court pending the hearing and determination of the appeal on condition that the applicants deposit, in court, a sum of Kenya shillings one hundred thousand only (Kshs100,000/) as security within 45 days hereof, failing which the stay of execution order granted herein shall lapse.

Each party shall bear its own costs of the application.

Orders accordingly.

Ruling dated and signed at Kisumu, read this 12th day of March, 2026, virtually through Microsoft Teams Online Application.

E. ASATI

JUDGE

In the presence of:

Maureen: Court Assistant.

Omondi for the Applicants.

No appearance for the Respondents.