

**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT SIAYA**

**ELC (OS) NO. E021 OF 2025**

**JARED OLWAL AGGREY  
ALALA.....PLAINTIFF/APPLICANT**

**VERSUS**

**JOHN ODHUGO ABOK (Sued as the Administrator of the  
estate of Robert Abok Odhugo - Deceased).....  
DEFENDANT/RESPONDENT**

**RULING**

1. The Applicant in the notice of motion dated 17<sup>th</sup> November 2025 seeks orders that pending the hearing and hearing and determination of this suit herein, the Honorable Court be pleased to grant an interim order of stay of proceedings in SUCCESSION CAUSE NO. E110 OF 2025 at Madiany Law Courts.
2. The application is premised on the grounds on its face and the supporting affidavit sworn by JARED OLWAL AGGREY ALALA the applicant. According the applicant the Respondent being the administrator of the late Robert Abok Odhugo's estate has instituted Succession cause no. E110 of 2025 at Madinay Law Courts to succeed parcel

number SIAYA/MAHAYA/1638 (suit property) registered in the names of his deceased father and forming part of his estate. That the said succession cause was gazetted vide gazette notice no. 12526 on 29th August 2025 and similarly a grant of letters of administration were issued to the Respondent on 29th September 2025.

3. It is the applicants case that the grant issued matures in six months and the same is to materialize sometime on 29th February, 2026 thus the Respondent being at liberty to prosecute his case can proceed to confirm the said grant which will render the suit herein nugatory and will greatly prejudice the applicant as the suit property will be transmitted to the Respondent.
4. According to the applicant the suit will be rendered nugatory because he has instituted the present suit seeking to be the registered proprietor of the suit property SIAYA/MAHAYA/1638 having purchased the suit property from the defendant's late father Robert Abok Odhugo, the registered owner sometime in 1999 wherein he paid the last instalment in purchase of the same, took immediate actual possession, erected his home and has lived on the suit land with his family for more than 30 years. That the proceedings herein have high chances of success and should the orders be denied he stands to suffer irreparable loss.

5. The application is undefended despite service as evidenced by the affidavit of service sworn by Bernard Otieno Ogare sworn on 1/12/2025 and filed on 8/12/2025.
6. Though undefended the application must be subjected to merit review. The application was therefore heard by written submissions pursuant to the directions of this court issued on 11/02/2026.
7. The submissions are dated 20/02/2026 and which I have considered.

### **ANALYSIS AND DETERMINATION**

8. Upon considering the application, the supporting affidavit thereto and the submissions the main issue for determination is whether the orders sought should be granted.
9. Counsel for the applicant has urged and rightly so that stay of proceedings is a grave matter and must be exercised sparingly. Counsel for the applicant has referred the court to Halsbury's Laws of England, 4th Edition, Vol. 37 at p. 330, to the effect that The stay of proceedings is a serious, grave and fundamental interruption in the right that a party has to conduct his litigation towards the trial on the basis of the substantive merits of his case, and therefore the Court's general practice is that a stay of proceedings should not be imposed unless the proceedings, beyond reasonable doubt, ought not to be allowed to continue.

10. The court has been invited to stay proceedings touching on succession proceedings filed in Ukwala Magistrates Court. In my considered view the right procedure is for the applicant to approach the trial court which has inherent power under Rules 73 and 41(3) of the Probate & Administration Rules to hear requests to set aside certain assets from confirmation until a dispute thereon has been determined while the other assets can be distributed.
11. Moreover, even where the above approach is taken and the litigant is denied such orders by the trial court appeal would lie to the High Court sitting on its jurisdiction as the court that handles succession and probate matters. This court would not be seized of jurisdiction to venture into such arena.
12. Let the applicant obtain the orders he is seeking in the appropriate forum
13. The upshot of the above is that the application dated 17/11/2025 is struck out with no orders as to costs.  
Orders accordingly.

**Dated at Siaya this 16<sup>th</sup> Day of March, 2026**

**HON. JUSTICE A. E. DENA  
JUDGE**

**16/3/2026**

**Ruling delivered virtually through Microsoft Teams  
Video Conferencing Platform in the Presence of:**

Ms. Mukoya for plaintiff

N/A for Respondent

Court assistant: Ishmael Orwa

ORIGINAL