

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NYANDARUA

ELC NO 114 OF 2023

LUCIA MURINGE MURIU (suing as the legal representative of
the estate of the late **JOHN MURIU KAMIRI**
(Deceased)...**PLAINTIFF**

VERSUS ZIPPORAH NYAWIRA MURIU.....1ST
DEFENDANT

FRANCIS KAMAU MURIU.....2ND
DEFENDANT

DISTRICT LAND REGISTRAR, NYANDARUA.....3RD
DEFENDANT

RULING:

Judgment in this case was read and delivered on the 20/2/2025 dismissing the Plaintiff's suit with no orders as to costs. Upon delivery of the same, the Plaintiff/Applicant states in her Application dated 17/3/2025, 25 days later and in her Affidavit in support thereof sworn on even date that her Advocate did not immediately inform her of the Judgment having been delivered nor its conditions until 7/3/2025 when she went to inquire from the said Advocate by which time the period for filing a Notice of Appeal had lapsed.

She depones that she desires to appeal against the Judgement and blames her Advocate for not informing her of the delivery of

the Judgment in good time. She said that this Application was filed in Court in good time and without unreasonable delay. She also prays for stay of execution of the said Judgment pending the hearing and determination of the intended Appeal. The Applicant assures this Court that she is ready and willing to furnish the Court with any form of security as the Court may set as a pre-condition for the grant of the stay of execution of the Judgment and/or an Order of Injunction. She has attached a copy of the Notice of Appeal. These are the grounds of the Plaintiff/Applicant for her Application dated 17/3/2025 for Orders that: -

- i. Spent.
- ii. That this Honourable Court be pleased to extend time for the Plaintiff/Applicant for him to file Notice of Appeal out of time.
- iii. That there be a stay of execution of the Judgment delivered on 20/2/2025 pending the hearing and determination of the intended Appeal.
- iv. That there be an Order of Injunction restraining the 1st and 2nd Respondents either by themselves, their Agents, servants or employees from selling, leasing out or in any other manner from interfering with the suit property viz L.R No. NYANDARUA/OL-KALOU SALIENT/63.
- v. Costs be in the cause.

The 1st Respondent filed a Replying Affidavit sworn on the 27/8/2025 in which she depones that the Applicant filed a Notice of Appeal on 26/2/2025 within the stipulated time. But that she

then withdrew her Appeal in Nakuru C.O.A No. E034 of 2025 without giving the Court the reasons for doing so.

The withdrawal was adopted by the Court of Appeal in Nakuru on 28/7/2025.

Having filed a Notice of Appeal in time and the same having served its purposes by the Applicant filing the Appeal and then withdrawing the same as shown in the Notice of Withdrawal attached to the 1st Defendant's Replying Affidavit and without telling this Court why the same is to be filed again I find that the Applicant is very economical with not only relevant information but also the truth. In her Application, the Applicant is not candid enough to tell the Court that she had filed a Notice of Appeal dated 26/2/2025 but gives the Court the supposition that the same had not been filed.

Further, the Applicant has not shown that she has requested for a certified copy of the Judgement and/or proceedings and I don't know how she expects to file an Appeal without the said documents. For the above reasons, the Application dated 17/3/2025 for extension of time is hereby dismissed with costs. In the same breath since the stay of execution and/or injunction is premised on an existing Appeal, the same cannot also be granted and is equally dismissed with costs.

Ruling dated, signed and delivered at Nyandarua this 18th Day of March, 2026.

MUGO KAMAU

JUDGE

In the Presence of: -

Court Assistant:	Samson.
Plaintiff's Counsel:	Mr. Opar.
Defendants' Counsel	N/A.