

REPUBLIC OF KENYA

IN THE HGIH COURT OF KENYA AT MERU

ELC APPEAL NO. 27 OF 2018

SAMUEL THILARI M'MAITAI.....APPELLANT/APPLICANT

VERSUS

SUSAN KAIRUTHI MBIRITHIRESPONDENT

RULING

1. Vide the application dated 12.7.2019, applicant prays that the court be pleased to extend time for the applicant/appellant to deposit the sum of Shs.200,000 and reinstate the conditional stay pending the hearing of the application dated 9.5.2019 as earlier directed. It is averred that the issue of deposit of security was not communicated to the applicant hence the non-compliance with the earlier court order.

2. In paragraph 6 of the replying affidavit of the respondent, it is averred that execution had already taken place on 1.5.2019, an averment which has not been rebutted by applicant. It follows that even by the time applicant was presenting the application before me on 13.5.2019, the legal landscape had changed and it appears the applicant was not candid on the issue of the status quo.

3. In the circumstances I find that the application is not merited. The same is dismissed with costs to respondent.

DATED, SIGNED AND DELIVERED IN OPEN COURT AT MERU THIS DAY OF 31ST DAY OF JULY, 2019 IN THE PRESENCE OF:-

C/A: Ndonge Dennis

Muchiri for appellant/applicant

Munene holding brief for Mwenda Mwarania for respondent

HON. LUCY. N. MBUGUA

ELC JUDGE