



REPUBLIC OF KENYA



Embakasi Ranching Co Limited v Njoroge & another (Environment and Land Appeal E201 of 2025) [2026] KEELC 2056 (KLR) (14 April 2026) (Ruling)

Neutral citation: [2026] KEELC 2056 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT AND LAND APPEAL E201 OF 2025**

JG KEMEI, J

APRIL 14, 2026

BETWEEN

EMBAKASI RANCHING CO LIMITED APPELLANT

AND

MOSES MACHARIA NJOROGE 1ST RESPONDENT

FLORENCE NJAMBI MINDA 2ND RESPONDENT

(In respect of the Appellant's/ Applicant's application dated 22/10/25)

RULING

1. Before the court is the applicant's application dated 22/10/25 seeking a stay of proceedings in CMELC NO E040 of 2025 – Moses Macharia Njoroge & Embakasi Ranching Co Ltd & Anor, pending the hearing and determination of the appeal.
2. The applicants stated that on 25/9/25, the court ordered that the 1st Defendant's case be closed, and the plaintiff was directed to file and serve submissions within 14 days. The defendants were also to file and serve their submissions within 14 days, and a mention was scheduled for directions on the judgment on 10/12/25.
3. It is the applicant's case that the court's orders prevented the applicant from being heard, despite the matter being listed for mention and not for hearing, as indicated by the counsel for the 1st Respondent. In its ruling issued on 7/7/25, the court permitted the applicant to file a statement of defence out of time, which the applicant fully complied with.
4. The dispute in the trial court concerns ownership of the land, which the parties have fiercely contested. It is fair and just that the applicant be given the opportunity to present their defence. Allowing the case to be decided without the applicant's participation could cause serious financial harm to the applicant, and the court would be unable to reach a fair and conclusive decision. The decision to close



the applicant's case without allowing the applicant to present evidence violates the constitutional right to a fair hearing.

5. The application is opposed by the Replying Affidavit of Moses Macharia Njoroge, sworn on 4/11/25, in which he deposed that the applicant has attempted to derail the hearing of the suit through unwarranted adjournments and a change of advocates. The hearing date was set for 25/9/25 in the presence of its advocates, and it cannot hide behind the notification in the Court Tracking System [CTS]. In any event, the applicant's advocate was absent from court on 25/9/25. The court declined to adjourn the matter, hence it is a negative order which is not subject to any stay. The applicant is guilty of indolence and unclean hands and, therefore, is disentitled to the orders sought.
6. Parties were directed to file and exchange written submissions, which I have read and considered and form part of the decision of this court.
7. The key issue is whether the application is merited
8. The law regarding the stay of proceedings pending appeal is outlined in Section 6 of the [Civil Procedure Act](#), which states that if an issue is directly and substantially in dispute between the same parties, another court should stay its proceedings concerning such a suit.
9. The Halsbury's Law of England 4th Edition Vol. 37 pages 330 and 332 states 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 proceeding beyond all reasonable doubt ought not to be allowed to continue.”

This is a power which, it has been emphasized, ought to be exercised sparingly, and only in exceptional cases.

“It will be exercised where the proceedings are shown to be frivolous, vexatious or harassing or to be manifestly groundless or in which there is clearly no cause of action in law or in equity. The Applicant for a stay on this ground must show not merely that the Plaintiff might not, or probably would not, succeed but that he could not possibly succeed on the basis of the pleading and the facts of the case.”

10. The applicant herein is challenging the court's decision to mark his case as closed before being given the opportunity to be heard. He contends that the matter was scheduled for mention on 25/9/25. However, the proceedings of 26/6/25 tell a different story. On 26/6/25, in the absence of any representation by the applicant, the matter was fixed for hearing on 25/9/25. As such, the applicant argues that the court should issue a stay of proceedings to prevent it from issuing directions on the date of judgment. From the proceedings, the matter was scheduled for directions on 10/12/25. The applicant has not informed the court what may have taken place on the material date.
11. To enable the applicant to prosecute its appeal, the court allows the application as prayed.
12. The costs shall be in the cause.
13. Orders accordingly

**DATED, SIGNED AND DELIVERED VIRTUALLY IN NAIROBI THIS 14TH DAY OF APRIL 2026
VIA MICROSOFT TEAMS.**

J G KEMEI



JUDGE

Delivered online in the presence of;

Mr Kibui for the Appellant

Mr Gatungo for the 1st Respondent

N/A for the 2nd Respondent

C/A – Ms. Elizabeth

