



REPUBLIC OF KENYA



KENYA LAW
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**Kibui v Mungai (Environment and Land Appeal E050 of 2025)
[2026] KEELC 2187 (KLR) (16 April 2026) (Ruling)**

Neutral citation: [2026] KEELC 2187 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NYAHURURU
ENVIRONMENT AND LAND APPEAL E050 OF 2025**

**LN MBUGUA, J
APRIL 16, 2026**

BETWEEN

JOSEPH GITHAE KIBUI APPELLANT

AND

FRANCIS NJIHIA MUNGAI RESPONDENT

RULING

1. Before me is a notice of motion application dated 18.12.2025 in which the appellant is seeking orders of stay of execution of the judgment delivered on 18.11.2025 in Nyahururu CM ELC Case No. E017 OF 2021 pending the hearing and determination of the appeal. The appellant contends that he was dissatisfied with the aforementioned judgment, which if executed would adversely affect him, adding that it is important to preserve the substratum of the suit. The application was served but no response was filed.
2. In *Winfred Nyawira Maina v Peterson Onyiego Gichana* [2015] eKLR, cited in *Selestica Limited v Gold Rock Development Ltd* [2015], the Court held that:

“The foundation of the stay pending appeal is that the party is intending to file or has filed an appeal in the exercise of his constitutional right of appeal. He must, however, show sufficient cause and preponderantly, that, if his appeal succeeds, he will suffer substantial loss unless stay is ordered. Moreover, he must bring his application without unreasonable delay and give security sufficient to cover performance of the decree which may ultimately be payable by him”.
3. In the case at hand, the appeal was duly filed on time. In the body of the judgment before the trial court, it was observed that the appellant is the one in occupation of the suit land, but in the final orders, he is required to vacate the said land. In the circumstances, I find that the appellant has met the criteria for



issuance of the orders sought. Thus, the application dated 18.12.2025 is allowed but the costs thereof shall abide the outcome of the suit.

DATED, SIGNED AND DELIVERED AT NYAHURURU THIS 16TH DAY OF APRIL 2026 THROUGH MICROSOFT TEAMS.

LUCY N. MBUGUA

JUDGE

In the presence of:

