



**Njache v Lotapash (Environment and Land Case 326 of 2017)
[2026] KEELC 2127 (KLR) (16 April 2026) (Ruling)**

Neutral citation: [2026] KEELC 2127 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NYAHURURU
ENVIRONMENT AND LAND CASE 326 OF 2017**

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

BETWEEN

HUMPHREY MBUGUA NJACHE PLAINTIFF

AND

SITONIK OLE LOTAPASH DEFENDANT

RULING

1. The back ground to the dispute herein is captured in the ruling delivered by this court on 3.3.2026. In brief, Judgment was delivered in this matter on 11.2.2025 in favour of the Plaintiff. The defendant filed an application dated 13.5.2025 seeking orders inter-alia, to set aside the said judgment, but that application was dismissed vide a ruling delivered on 9.10.2025. Meanwhile, the Plaintiff filed an application dated 13.8.2025 seeking orders of eviction of the Defendants from the suit land. This ruling relates to the said application.
2. The applicant/plaintiff seeks the following orders;
 - “a) That this honourable court be pleased to issue an eviction order directed at the defendant/respondent, his agents, servants, employees or any other persons claiming under him, to vacate and be removed from Land Parcel Number Laikipia/Marmanet/4563, currently registered in the plaintiff/applicants name pursuant to a judgment issued by this court on 11th February 2025.
 - b) That the Officer Commanding Station (OCS) Marmanet Police Station be and is hereby directed to supervise and provide security during the execution of the eviction order to ensure compliance and to maintain law and order during the process”.



3. The application is premised on grounds that the applicant was registered as the owner of the suit property in tandem with the judgment of this court, but the defendants have blatantly refused to vacate the suit land. It is argued that there is no order for stay of execution of the judgment in this matter.
4. In response thereof, the respondent filed a replying affidavit dated 26.11.2025 where he admits that judgment was delivered in favour of the applicant on 11.2.2025. However, he sought orders at the Court of Appeal to lodge an appeal out of time, of which his application was allowed. That in the circumstances, the eviction order ought not to be allowed.
5. I have considered the rival arguments in this matter. I have also taken into account that judgment was delivered herein on 11.2.2025 and I have also seen the ruling from the Court of Appeal dated 31.10.2025. The provisions of Order 42, Rule 6 of the Civil Procedure Rules provides that:

“(1) No appeal or second appeal shall operate as a stay of execution or proceedings under a decree or order appealed from except in so far as the Court appealed from may order, but the court appealed from may for sufficient cause order stay of execution of such decree or order,.....”Emphasize added”.
6. In the case at hand, no stay orders were sought and none were granted by this court or the Court of Appeal, an observation also made by this court in its ruling of 3.3.2026. In that regard, there is no basis for denying the orders sought. Thus, the application dated 13.8.2025 is allowed with costs to the applicant.

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

LUCY N. MBUGUA

JUDGE

In the presence of:

Bedan/Vanessa – Court Assistants

Kimani Kinyanjui for Plaintiff

Wakhisi for Defendant

