

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NANYUKI

ELC APPEAL NO. E016 OF 2025

DAVID

MATHEA

GIKUNJU

P/A.....APPELLANT/APPLICANT

-VERSUS-

KENYA AFRICAN NATIONAL UNION.....1ST

RESPONDENT

NATIONAL DIRECTOR OF PHYSICAL PLANNING,

MINISTRY OF LANDS, HOUSING & NATIONAL

PLANNING.....2ND

RESPONDENT

COMMISSIONER OF LANDS.....3RD

RESPONDENT

JAMES MWANGI WANJOHI.....4TH

RESPONDENT

LUCY WANGUI KAMAU.....5TH

RESPONDENT

MARY W. MACHARIA.....6TH

RESPONDENT

2. The appellant avers that he is aggrieved by the said ruling, hence the appeal and that he stands to suffer loss and damage if an order of stay of execution is not granted.
3. The application is opposed by the 4th Respondent vide grounds of opposition dated 7.11.2025 where it is argued that the applicant ought to deposit the taxed sum of Kshs.161,000/- and security for costs of the appeal at Kshs.300,000/- as a condition for the stay orders, adding that the applicant is determined to deny the 4th respondent the fruits of litigation.
4. The court has considered the rival arguments. This court has discretion to grant or to refuse an application for stay of execution pending appeal in terms of the provisions of **Order 42 of the Civil Procedure Rules**. It is noted that the appeal will turn on whether the appellant had instructions to file the Rumuruti suit. That is a question which can be dealt with in limine in the appeal. Thus, in the intervening period, the stay orders are appropriate. In the circumstances, the application dated 3.10.2025 is allowed but the orders shall remain in force for a period of 6 months.

**DATED, SIGNED AND DELIVERED AT NANYUKI THIS
22ND DAY OF APRIL 2026 THROUGH MICROSOFT
TEAMS.**

LUCY N. MBUGUA

JUDGE

In the presence of:

Ms Rotich holding brief for Kamau for the Appellant

Kibet for the Respondent

CA Nancy Mwangi