

**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT AND LAND COURT AT MALINDI**  
**ELCLA NO. E056 OF 2025**

**KENGA CHARO KOMBE** .....  
**APPELLANT**

**VERSUS**

**KADHENGI NGUMBAO & ANOTHER** .....  
**RESPONDENTS**

**RULING**

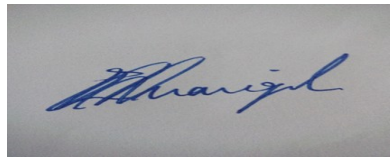
1. The application dated 13<sup>th</sup> November 2025 is seeking stay of execution of the judgment and decree in *Kaloleni ELC No E 003 Of 2024 Kenga Charo Kombe VS Kadhengi Ngumbao Mkwavi and The Land Adjudication and Settlement Officer Kilifi*.
2. The respondent filed replying affidavit dated 4<sup>th</sup> December 2025 in which he opposed the stay of execution sought on grounds of inordinate delay, correctness of judgment of the lower Court and resultant lack of triable issues in the appeal, belated service of the appeal, frustration from enjoying quiet possession of his lawfully acquired property and freedom from continued trespass by the applicant, as well as the contention that the magistrate’s court had jurisdiction. For those reasons, he stated that even the interim orders granted under **prayer number 2** of the application ought to be set aside because they were granted without due performance of the mandatory obligations under **Order 42 Rule 6** of the Civil Procedure Rules as the applicant has not deposited the general damages awarded as security.
3. This court has on perusal of the physical file and the Judiciary CTS noted that the Record of Appeal in this matter was filed on **28<sup>th</sup> January 2026** and it was served on **29<sup>th</sup> January 2026** upon the respondents.
4. In the circumstances the appeal is only awaiting directions as to hearing, and it is only proper that the hearing be expedited to bring a final conclusion to the entire dispute for the relief of all the

parties. In the circumstances, I hereby order that application dated 13<sup>th</sup> November 2025 be disposed of in the following manner:

- a. Prayer number 3 of the application is granted as prayed;***
- b. The costs of the application shall abide the outcome of the appeal;***
- c. The appeal shall be mentioned on 16<sup>th</sup> May 2026 for the issuance of directions as to hearing;***
- d. The appellant shall supply a physical copy of the record of appeal long before 16<sup>th</sup> May 2026 for the court record.***

**Dated, signed and delivered at Malindi on this 23<sup>rd</sup> Day of April, 2026.**

**MWANGI  
JUDGE, ELC,**

A rectangular box containing a handwritten signature in blue ink, which appears to be 'Njoroge'.

**NJOROGE,  
MALINDI.**