



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT CHUKA

CHUKA ELC CIVIL APPEAL CASE NO. 09 OF 2019

EDWARD NGARI MUSA.....APPLICANT/APPELLANT

VERSUS

SHADRACK NYAGA NJERU.....RESPONDENT

RULING

1. This application is dated **7th October, 2019** and seeks orders:

1.

2. That the application be certified as urgent and service be dispensed with in the first instance.

3. That pending the hearing and determination of this application there be a stay of execution of the judgment and orders issued on 24th June, 2019 by Hon. J. M. Njoroge Chief Magistrate in Civil Case No. 127 of 2014 Chuka.

4. That pending the hearing and determination of ELC Appeal No. 8 of 2019 there be a stay of execution of the judgment and orders issued on 24th June, 2019 by Hon. J. M. Njoroge Chief Magistrate in Civil Case No. 127 of 2014 Chuka.

5. That costs be in the cause.

2. The application is supported by the affidavit of Edward Ngari Musa, the applicant, sworn on **7th October, 2019** and has the following grounds:

a) That the applicant herein was dissatisfied with the decision of the Hon. J. M. Njoroge Chief Magistrate in Civil Case No. 127 of 2014 Chuka in the judgment delivered on 24th June, 2019 and has filed ELC Appeal No. 9 of 2019 an appeal which is arguable and has high chances of success.

b) That in the said judgment eviction orders issued against the applicant (sic) to be executed in three months' time from the date of the judgment, which period lapses on 24th October, 2019.

c) That the applicant risks being evicted from his land that he rightfully owns, resides in with his family and his property being destroyed upon the lapse of the three month's period in a week's time.

d) That unless the execution of the judgment and orders of the lower court are stayed the applicant stands to suffer irreparable loss and detriment.

e) That the appeal if successful will be rendered nugatory if stay of execution is not granted.

f) That the Respondent has threatened the applicant that he shall proceed to immediately execute the orders upon the lapse of the three month's period.

g) That there was no undue delay in bringing this application.

h) That time is of essence in determining this application.

i) That the applicant shall not suffer any prejudice if the appeal (sic) is allowed.

3. On **8th October, 2019** the parties proffered the following consent which they asked the court to adopt as its order:

BY CONSENT

a) Orders and directions issued in ELC Appeal No. 8 of 2019 to apply to ELC Appeal No. 9 of 2019

b) Parties be at liberty to file an application seeking to consolidate ELC Appeal No. 8 of 2019 and ELC Appeal No. 9 of 2019

4. The above order was adopted as an order of this court.

5. The parties will come to court for **directions** on **11.11.2019** instead of on 29.10.2019

Delivered in open Court at Chuka this 8th day of October, 2019 in the presence of:

CA: Ndegwa

Miss Ngigi for the Appellant

Matunda fo the Respondent

P. M . NJORGE,

JUDGE.