



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAROK

ELC CAUSE NO. 335 OF 2017

FORMERLY ELC (KISII) CAUSE NO. 359 OF 2010

MICHAEL KISHON OLE RISA & 8 OTHERS.....PLAINTIFFS

-VERSUS-

HON. GIDEON KONCHELLAH & 15 OTHERS.....DEFENDANTS

RULING

I have read the application dated 15th November, 2017 which was brought under the provisions of sections 1A, 1B and 3A of the Civil Procedure Act, order 43 (6) of the Civil Procedure Rules seeking stay of proceedings in the substantive suit herein pending the hearing and determination of Kisumu Civil Appeal No. 106 of 2017.

The Application was based on the grounds that the Applicants had filed an Appeal against the consolidation of Civil Suit No. 359 of 2012 and 320 of 2017 which order was delivered.

The Applicant contends that they have filed a Notice of Appeal and that the Court of Appeal was of the view that the two matters be heard together.

Having read the application I find that the applicant has not to date availed a copy of any stay orders of the Court of Appeal to support the argument that the court was of the view that both suits be heard together. Furthermore Mutungi J having declined to issue orders of consolidation and stay I will uphold his orders and order that the matter being filed in court in 2006 do proceed and that should the applicants be lucky at the Court of Appeal with their intended appeal the court will stay the proceedings as and when it served.

In view of the above I dismiss the application dated 15th November, 2017.

DATED, SIGNED and DELIVERED in open court at **NAROK** on this **16th** day of **July, 2018**

Mohammed Noor Kullow

Judge

16/7/18

In the presence of:

Mr Koceyo with Mr Kamwaro for the 1st to 3rd defendants

Mr Langat holding brief for Ogolla for the plaintiff

CA:Chuma

Mohammed Noor Kullow

Judge

16/7/18