



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT CHUKA**

**CHUKA MISCELLANEOUS ELC CASE NO. 05 OF 2018**

**JACKSON KAMAU NTHIGA (LEGAL REPRESENTATIVE OF  
NTHIGA MATUMO).....APPLICANT**

**VERSUS**

**HUMPREY KIRIMI MBUBA.....RESPONDENT**

**RULING**

1. This application is dated **30<sup>th</sup> June, 2018** and seeks orders:

- a. That this application be certified urgent.
- b. That this honourable court be pleased to extend time for the applicant to appeal against the judgment of the Chief Magistrate in **Chuka CMCC No. 16 of 2004**.
- c. That pending the hearing of this application there be stay of execution of the judgment decree in **Chuka CMCC No. 16 of 2004**.
- d. That the costs of this application be provided.

2. It has the following grounds:

- i) The applicant has a good appeal but the proceedings and judgment have taken time to be supplied.
- ii) That a copy of the judgment which has not been proof read is what was ready.
- iii) That the judgment did not consider legal issues which favour the applicant.
- iv) That the plaintiff may proceed with execution as the applicant waits for the proceedings and judgment.

3. When the matter came up for interpartes hearing on **10<sup>th</sup> July, 2018**, Mr. Mark Muriithi, for the respondent, asked the court to grant him 14 days to file his response. This prayer was found reasonable by the court.

4. Regarding prayer C for a stay of execution of judgment, the applicant will be required to deposit security for due performance of the decree that will result from the impugned judgment.

5. It is ordered as follows:

- (i) An order of stay of execution of the judgment decree in Chuka CMCC No. 16 of 2004 is issued pending the hearing of this application subject to the applicant depositing in court, within 14 days, a sum of Kshs. Four Hundred Thousand (Kshs.400,000/=) failing which the order of stay granted herein will automatically lapse.
- (ii) The respondent is granted 14 days to respond to the application.
- (iii) Parties are directed to come to court for interpartes hearing on **30<sup>th</sup> July, 2018**.
- (iv) Costs shall be in the cause.

6. It is so ordered.

**Delivered in open court at Chuka this 10<sup>th</sup> day of July, 2018** in the presence of:

CA: Ndegwa

Charles Muchiri for the Applicant

Mark Muriithi for the Respondent

**P.M. NJORGE**

**JUDGE**