

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT MERU

ELC APPEAL NO. 23 OF 2018

JOHN GUANTAI.....PLAINTIFF

VERSUS

JOSEPH KABURU KIARA.....DEFENDANT

RULING

1. An appeal has been filed herein against the Judgment of Hon S. Abuya delivered on 27.6.2018. The appellant/Applicant has also filed an application on 2.10.2018 seeking for an order of stay of execution of the aforementioned judgment and all other consequential orders issued therein pending the hearing and determination of the application and the appeal.
2. The applicant is further seeking for orders of injunction restraining the respondent by himself, his agents, servants, employees or anyone acting on his behalf from evicting the applicant, destroying/demolishing his houses/structures, selling, transferring or in any other way interfering with the applicant's use and occupation of land parcel L.R No. Timau Settlement Scheme/1279 pending the hearing and determination of this application and the main appeal herein. Applicant is also seeking for costs of the application.
3. The grounds in support of the application are that the applicant stands to be evicted within 90 days from 25th July 2018 or soon thereafter in enforcement of the lower court's Judgment. Applicant avers that the appeal will be rendered nugatory, occasioning him irreparable loss if the orders sought for are not granted.
4. Applicant has also filed an affidavit in support of the application where he has availed annexures including the judgment from the lower court.
5. The application was served but no response was filed. The application is hence unopposed. I find that indeed the Judgment of the lower court was to the effect that applicant was to vacate the suit land within 90 days from the date of judgment. He is therefore facing eviction. **I therefore grant the orders of stay of execution as well as the order of injunction as prayed in point 2 and 3 of the application with a rider that such orders will remain in force for a period of 8 (eight) months.**
6. The costs of this application will abide the outcome of the appeal.

DATED, SIGNED AND DELIVERED IN OPEN COURT AT MERU THIS DAY OF 8TH NOVEMBER, 2018 IN THE PRESENCE OF:-

C/A: Janet

Ashaba for applicant

HON. LUCY. N. MBUGUA

ELC JUDGE