



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT OF KENYA**

**AT ELDORET**

**E & L CASE NO. 139 OF 2014**

**DAPHINE BELINDA KETER.....PLAINTIFF**

**VERSUS**

**ECO BANK KENYA LIMITED.....DEFENDANT**

**RULING**

The applicant, **Daphine Belinda Keter** has applied that there be a stay of sale of all those parcels of land known as L. R. Nos. 9399/32, 9399/34 and 9399/36 situate North of Nandi Hills Town registered in the name of Tony Kiplimo Keter, guarantor to Kwaliti Foods Africa Limited which was slated for 29.11.2018.

The application is based on grounds that there is an appeal pending before the Court of Appeal and that this honourable court granted stay of sale of the charged properties namely L. R. Nos. 9399/32, 9399/34 and 9399/36 pending the hearing and determination of the appeal. The court ordered that the plaintiff do deposit security in court for costs to the value of Kshs. 2 Million within 30 days.

The defendant/respondent has advertised the charged properties for public auction. The plaintiff/applicant has deposited security by way of title number Nandi Hills/Kosoiywo Block 1/71 in the name of John Kiplimo Keter. The application is supported by the affidavit of Daphine Belinda Keter. The same is opposed by the respondent who has filed a replying affidavit of Sammy Miringu sworn on 21<sup>st</sup> November, 2018.

I have considered the submissions by the parties in this matter and do find that this court has already granted an order of stay of sale pending appeal and therefore, any intended sale after the grant of stay by the court is invalid and in contempt of the court. The court gave condition that the application to deposit security to the value of Kshs. 2,000,000. The same has been deposited in court, in form of title Number Nandi Hills/Kosoiywo Block 1/71 measuring 0.64 Ha registered in the names of John Kiplimo Keter. I do find that the parties herein are now involved in circuitous litigation and turning the court into a circus.

I do order that the County Land Registrar, Nandi to enter a restriction in respect of Nandi Hills/Kosoiywo Block 1/71 as security in this dispute, pending hearing and determination of the appeal.

**Dated and delivered at Eldoret this 4<sup>th</sup> day of December, 2018.**

**A. OMBWAYO**

**JUDGE**