



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT OF KENYA

AT NAKURU

CIVIL SUIT NO 21 OF 2010

GEORGE OLE SANGUI1ST APPLICANT

SHOKORET OLE SETABAU.....2ND APPLICANT

FRANCIS PATU SIMPANOI.....3RD APPLICANT

OLEKU OLE PUNYWA.....4TH APPLICANT

SIPALE OLE KOMEYAN.....5TH APPLICANT

NTIKA OLE ROKA.....6TH APPLICANT

DOPOI OLE NCHOSHOI.....7TH APPLICANT

ATETI OLE NKUME.....8TH APPLICANT

TERERE OLE MALOI.....9TH APPLICANT

KUDATE OLE AMBONI10TH APPLICANT

LENGUTUTI OLE LESIRI.....11TH APPLICANT

KOOLI OLE KARATINA MUTUTUA.....12TH APPLICANT

VERSUS

KEDONG RANCH LIMITED.....RESPONDENT

RULING

1. The application before me is that dated 9th February 2015. The applicants seek a stay of the judgment pending hearing of an intended application for stay pending appeal before the court of Appeal. Mr Otieno for the applicants urged the application. The application is opposed by Mr Kadima for the respondent.

2. I have considered the application and the submissions of counsel. What the applicants want is to be granted an interim stay pending the filing of an application for stay pending appeal before the Court of

Appeal. The applicants of course have under the provisions of order 42 Rule 6, leeway to obtain stay pending appeal in this court, but that is not what they want. They want to pursue the issue of stay pending appeal before the Court of Appeal and not this court, and what they now ask, is only an interim stay as they prepare their application for consideration by the Court of Appeal.

3. The application is supported by the affidavit of Mr. Willis Evans Otieno who is also counsel for the applicants. Various matters of fact have been deponed which in my view ought to have been deponed by the applicants themselves. There are critical questions such as who is in possession and what loss may be suffered if stay is not granted that can only, in my view, be stated by the applicants themselves. I am therefore of the opinion that the application is not properly supported by an appropriate affidavit.

4. I am not therefore persuaded that this is a fit case to grant the stay sought. I dismiss the application with costs.

5. The applicants can of course still apply to the Court of Appeal for stay and they may pursue that avenue.

It is so ordered

Dated, signed and delivered in open court at Nakuru this 19th day of February 2015

MUNYAO SILA

JUDGE

ENVIRONMENT AND LAND COURT

AT NAKURU

In presence of :-

Mr Willis Otieno for applicant

Mr Kadima for respondent

Emmanuel Maelo : CA

MUNYAO SILA

JUDGE

ENVIRONMENT AND LAND COURT

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