



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MERU
LAND AND ENVIRONMENT COURT
CIVIL APPEAL NO. 36 OF 2015

M'MUCHEKE M'MUBWIKA.....1ST APPELLANT
MESHACK MURUNGI.....2ND APPELLANT
STEPHEN MEEME.....3RD APPELLANT
JULIUS KAARI MUCHEKE.....4TH APPELLANT

VERSUS

JANET KAUNANKU KITHIA.....1ST RESPONDENT
SIMON MAORE.....2ND RESPONDENT

R U L I N G

This ruling relates to an application for stay of execution of a judgment made on 10.7.2015 by the Hon. J. Wang'ang'a, Resident Magistrate, Maua Law Courts pending the hearing of an application dated 12.8.2015. This application by way of Notice of Motion is dated 9.9.2015.

Mr. Leekona holding brief for Harun Gitonga, advocate for the respondents opposed the application. He told the court that Mr. Gitonga was not aware that this oral application would be made today. He said that the parties had come to court yesterday, 15.9.2015, for interpartes hearing of the application dated 12.8.2015 but the court was still on vacation. He opined that it would be unfair for the court to grant the sought orders before the respondents were given an opportunity to be heard.

I agree with the sentiments of Mr. Leekona that it would have been desirable to hear the respondents before the sought order for stay is granted. However, after weighing up the interest of justice in this matter, I issue the following orders:

1. ***The applicant should deposit a sum of Kshs. 300,000/= with Court as security within 14 days of today failing which the conditional stay issued herein will lapse automatically.***
2. ***Applicants to file and exchange written submissions regarding both applications, one dated 12.8.2014 and the other dated 9.9.2015, within 7 days and the respondents to file and exchange their written submissions with respect to the 2 applications within 7 days after service of the applicants' written submissions upon them.***
3. ***Confirmation of filing of written submissions on 7.10.2015.***

It is so ordered.

Delivered in Open Court at Meru this 16th day of September, 2015 in the presence of:

Cc. Daniel/Lilian

Kirimi Mbogo for Applicants

Leekona for the Respondents.

P. M. NJOROGE

JUDGE