



Roba & 2 others v Huka & 2 others (Environment and Land Appeal E002 of 2023) [2024] KEELC 1304 (KLR) (11 March 2024) (Ruling)

Neutral citation: [2024] KEELC 1304 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT ISIOLO
ENVIRONMENT AND LAND APPEAL E002 OF 2023
PM NJOROGE, J
MARCH 11, 2024**

BETWEEN

**GUYO HUKA ROBA 1ST APPELLANT
TADESA MOHAMED 2ND APPELLANT
ROBA ARERO 3RD APPELLANT**

AND

**SORA GUYO HUKA 1ST RESPONDENT
GUYO OKOLA HARO 2ND RESPONDENT
MICHAEL MALICHA GUYO 3RD RESPONDENT**

RULING

1. This application is dated 18th July, 2023 and seeks the following orders;
 1. That this application be certified as urgent and service be dispensed with in the first instance and the application be heard expeditiously.
 2. That there be a temporary stay of execution pending the hearing and determination of the main Application herein.
 3. That there be a temporary stay of execution of enforcing the judgment entered on 20th June, 2023 pending the hearing and determination of Isiolo High Court Civil Appeal Number ELCLA 2 of 2023.
 4. That costs of the Application be provided for.
2. The application is supported by the affidavit of Guyo Huka, the first appellant and has the following grounds;



- i. The Appellant has lodged an Appeal against the Judgment of this Honourable Court delivered on 20th June, 2023 and have indeed filed Memorandum of Appeal and Record to with Isiolo High Court Civil Appeal No. ELCLA 2/2023.
 - ii. If the execution proceedings commence the Appellant will suffer substantial irreparable loss and damage.
 - iii. That the lower court Thirty (30) days stay of execution issued on the 20th June, 2023 will lapse on the 19th July, 2023.
3. Constructively, the application is not opposed as the respondents have not filed submissions. I find that the filing of the application was timeous. I also find that the appellants have, in their submissions, persuaded the court that the orders they seek are meritorious.
 4. I note that on 20/7/2023, this court gave a conditional stay of execution provided that the appellants deposited with court as security the sum of Kshs. 600,000/= within 21 days. As the appellants deposited the same sum of Kshs. 600,000/= as security, I direct that the said deposit remains in the custody of this court until this appeal is heard and determined.
 5. The following orders are issued;
 - a. The application is allowed with an order that the costs shall be in the cause Provided that the sum of Kshs. 600,000/= which has been deposited with court as security for costs shall remain in the custody of the court until this appeal is heard and determined.
 - b. The appellants are directed to file and exchange the apposite record of appeal within the next 21 days.
 - c. Parties will come to court for direction on 13th May, 2024.

DELIVERED IN OPEN COURT AT ISIOLO THIS 11TH DAY OF MARCH, 2024 IN THE PRESENCE OF:

Court assistant: Balozi/Rahma

Misati present for the Appellant

Other parties absent

HON. JUSTICE P.M NJOROGE

JUDGE

