



IN TH COURT OF APPEAL

AT NAIROBI

(CORAM: KOOME, J.A (IN CHAMBERS))

CIVIL APPEAL (APPLICATION) NO. E335 OF 2020

BETWEEN

WINNIE MUKOLWE (*sued as the administrator of the estate of*

DAVID NYAMBU JONATHAN KITURI -

deceased).....1<sup>ST</sup> APPELLANT/APPLICANT

JULIA KIRIRA (*sued as the administrator of the estate of*

DAVID NYAMBU JONATHAN KITURI –

deceased).....2<sup>ND</sup> APPELLANT/APPLICANT

HOPE MUTUA (*sued as the administrator of the estate of*

DAVID NYAMBU JONATHAN KITURI

deceased).....3<sup>RD</sup> APPELLANT/APPLICANT

CLARA KITAO.....4<sup>TH</sup> APPELLANT/APPLICANT

DELINA NASIBU.....5<sup>TH</sup> APPELLANT/APPLICANT

FLORA NYANGE.....6<sup>TH</sup> APPELLANT/APPLICANT

EMILY MWARO.....7<sup>TH</sup> APPELLANT/APPLICANT

IRENE KITURI.....8<sup>TH</sup> APPELLANT/APPLICANT

DAMARIS KITURI..... 9<sup>TH</sup> APPELLANT/APPLICANT

HENRY KITURI.....10<sup>TH</sup> APPELLANT/APPLICANT

ASWANI NZEE.....11<sup>TH</sup> APPELLANT/APPLICANT

MERCY NZEE.....12<sup>TH</sup> APPELLANT/APPLICANT

CICILIA NZEE.....13<sup>TH</sup> APPELLANT/APPLICANT

AND

LUCY WANJIKU MUCHAI t/a

*(Being an application for stay of execution of the order by the Environment*

*and Land Court of Kenya (Gacheru, J.) dated 15<sup>th</sup> October, 2020 in ELC CASE No. 175 OF 2019)*

\*\*\*\*\*

**RULING**

On 4<sup>th</sup> November, 2020 I declined to certify the Notice of Motion dated 28<sup>th</sup> October, 2020 as urgent. Counsel for the applicant requested for an *inter partes* hearing on the issue of urgency as provided under **Rule 47** of the Court of Appeal Rules. Upon considering the matters raised in the letter by counsel for the applicant dated 12<sup>th</sup> November, 2020, his submissions on the issue of urgency as well as the submissions by counsel for the respondents who are opposed to the matter being certified as urgent. I am persuaded that most of the appellants are advanced in age and a continued delay in finalizing the issues raised therein may impact on their health negatively. I accordingly certify the Notice of Motion dated 28<sup>th</sup> October, 2020 as urgent to be given a priority hearing date

***Dated and delivered at Nairobi this 5<sup>th</sup> of February, 2021.***

**M. K. KOOME**

.....

**JUDGE OF APPEAL**

*I certify that this is a true*

*copy of the original.*

*Signed*

**DEPUTY REGISTRAR**