

IN THE COURT OF APPEAL

AT NAIROBI

CORAM: GATEMBU J.A (IN CHAMBERS) CIVIL APPLICATION NUMBER 122 OF 2018

BETWEEN

STEPHEN GATHUKU KINYANJUI.....APPLICANT

AND

PETER GATIHURI KARINGU.....RESPONDENT

(An application leave to file the intended appeal as a pauper against the Judgment of the E.L.C. (Obaga, J) delivered on 5th February, 2018

in

E.L.C. No. 1513 of 2016)

RULING

1. By his notice of motion dated 4 April 2018, the applicant Stephen Gathuku Kinyanjui, seeks leave of the court to file his appeal “*in forma pauperis*”. He intends to appeal against the judgement of the High Court delivered on 5th February 2018 ordering his eviction from the property known as title number Ngenda/ Mutomo/T. 225. In his affidavit in support of the application, he deposes that he is not able to make ends meet; that he has no stable source of livelihood; that he relies on money from small-scale farming for his which he sought to be evicted; and that he does not have the means to pay court fees. He has attached to his affidavit a letter addressed to the Legal Advice Centre, Kituo Cha Sheria, by the assistant county commissioner, Gatundu seeking financial assistance.

2. The applicant appeared before me for the hearing of his application on 27th November 2018. Though served, there was no appearance for the respondent. The applicant referred to his application and the affidavit in support and reiterated that he has no means by which to pay the court fees in this matter. I invited the Registrar of the Court to make representations in the matter pursuant to rule 115(2) of the Rules of the Court. Having interviewed the applicant, the Registrar filed a report dated 13th December 2018 from which it appears that the applicant is indeed deserving of the prayers that he seeks.

3. Having considered the application and the material presented, I allow prayer 2 of the applicant's application dated 4th April 2018 and lodged in the court registry on 24th April 2018. In accordance with lodge his appeal from the decision of the Environment and Land Court in ELC No. 1513 of 2016 without prior payment of fees of Court and without security for costs being lodged.

Orders accordingly.

Dated and delivered at Nairobi this 20th day of December, 2018.

S. GATEMBU KAIRU, FCIArb

.....

JUDGE OF APPEAL

I certify that this is the true copy of the original.

DEPUTY REGISTRAR