



REPUBLIC OF KENYA

IN THE COURT OF APPEAL

AT NAKURU

(CORAM G.B.M. KARIUKI, SICHALE & KANTAI, J.J.A)

CIVIL APPLICATION NYR. NO. 41 OF 2017

BETWEEN

TUNGO TOTONA.....1ST APPLICANT

LEDEMA TOTUNA.....2ND APPLICANT

RONALD TOTONA.....3RD APPLICANT

AND

PRISCILLA JERUTO KISOSO.....RESPONDENT

(Being an application for stay of execution of the ruling, order and injunction pending the hearing and determination of an intended appeal from the ruling and order of the Environment and Land Court of Kenya at Nakuru (Munyao, J) Dated 16th March, 2017

in

E.L.R.C. NO. 20 OF 2016)

ORDER OF THE COURT

The Notice of Motion now before us dated 25th April, 2017 premised on **Rule 5(2)(b)** of this Court's Rules cannot proceed to hearing because **Mr. Arusei**, the learned counsel for the applicant who is in Court has not complied with this Court's Practice Rules in that he has omitted case digest in his list of authorities that span to 500 pages. He has sought time to do so.

Secondly, page 2 of the impugned ruling is missing and he states that he needs to obtain it from the Environment and Land Court. **Mr. Arusei** has also sought leave to have the affidavit filed and send by him this morning, in reply to the respondent's affidavit deemed as duly filed.

Mr. Karanja does not object to the application for leave but he is unable to wait beyond noon for the hearing of the application by which time **Mr. Arusei** indicates he will have remedied the anomalies.

In the light of the above we adjourn the hearing of the application to a date to be fixed on priority. We grant the applicant leave to file and amend the application in reply and the filed reply is hereby deemed as duly filed.

The applicant shall regularize the application by filing the missing page of the impugned ruling and provide case digest to his list of authorities.

The costs for today shall be in the application.

Dated at Nakuru on this 29th day of May, 2017.

G.B.M. KARIUKI

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JUDGE OF APPEAL

F. SICHALE

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JUDGE OF APPEAL

S. Ole KANTAI

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JUDGE OF APPEAL