



IN THE COURT OF APPEAL

AT ELDORET

CORAM: OMOLO, TUNOI & O'KUBASU, J.J.A.

CIVIL APPLICATION NAI 194 OF 2005

BETWEEN

KIROP KANDA.....APPLICANT

AND

1. GABRIEL BIWOT KANDA

2. KIPTOO KAND KIBOR

3. BENJAMIN RUTO KANDA

4. KILIMO KANDA.....RESPONDENTS

(Application for stay of execution pending the hearing and determination of the lodged and filed appeal from the judgment and decree of the High Court of Kenya at Kitale (Nambuye, J) dated 19th November, 2002

in

H.C.C.C. NO. 128 OF 1998)

RULING OF THE COURT

The judgment the applicant is appealing against was delivered on 19th November, 2002. Thereafter the applicant applied to the High Court for a stay of execution which the High Court granted on condition that he deposit Shs.130,000/= in court within seven days. The applicant failed to do so with the result that execution has taken place and titles issued. There is now nothing for us to stay as the decree has been executed. We accordingly decline to order any stay and the consequence of that is and must be that the motion dated 12th July, 2005 and filed in court on the same day be and is hereby dismissed. The costs of the dismissed motion shall be in the appeal.

DATED and DELIVERED at ELDORET this 23rd day of September, 2005.

R.S.C. OMOLO

.....

JUDGE OF APPEAL

P.K. TUNOI

.....

JUDGE OF APPEAL

E.O. O'KUBASU

.....

JUDGE

OF

APPEAL

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

DEPUTY REGISTRAR