



IN THE COURT OF APPEAL

AT NAKURU

(CORAM: LAKHA, OWUOR & O'KUBASU, J.J.A)

CIVIL APPLICATION NO. NAL. 336 OF 2001

BETWEEN

MURAYA WANDUNGUAPPLICANT

AND

RESIDENT MAGISTRATE (NAKURU)1ST RESPONDENT

NYANDARUA DISTRICT LAND DISPUTES TRIBUNAL...2ND RESPONDENT

(Application for stay of execution pending an appeal from the ruling and order of the High Court of Kenya at Nakuru (Mr. Justice Rimita) dated 21st September, 2001

in

H.C. MISC. APPLICATION NO. 63 OF 2001)

RULING OF THE COURT

This is an application brought under rule 5(2) (b) of the Court of Appeal Rules in which the applicant seeks orders of injunction or stay of execution pending the hearing and determination of an intended appeal.

The principles upon which this Court acts in an application of this nature are now well settled. First, the applicant has to demonstrate that the intended appeal is likely to succeed or that it is not frivolous. Secondly, the applicant has to show that the appeal would be rendered nugatory if the orders sought are granted.

Mr. Akhaabi did not satisfy us on either of these issues.

Nor are we persuaded that the intended appeal is arguable or that it would be rendered nugatory if the orders sought are not granted.

That being so, this application fails. It is therefore dismissed with costs.

Dated and delivered at Nakuru this 19th day of September, 2002.

A. A. LAKHA

.....

JUDGE OF APPEAL

E. OWUOR

.....

JUDGE OF APPEAL

E. O. O'KUBASU

.....

JUDGE OF APPEAL

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

DEPUTY REGISTRAR