



**Thiong'o & another v Ng'ang'a (Environment and Land Appeal
E012 of 2024) [2024] KEELC 5711 (KLR) (26 July 2024) (Ruling)**

Neutral citation: [2024] KEELC 5711 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAKURU
ENVIRONMENT AND LAND APPEAL E012 OF 2024**

**A OMBWAYO, J
JULY 26, 2024**

BETWEEN

MARGARET KWAMBOKA THIONG'O 1ST APPELLANT

NAOMI WAMAITHA KAGIA 2ND APPELLANT

AND

SAMUEL NG'ANG'A RESPONDENT

RULING

1. Margaret Kwamboka Thiong'o, Naomi Wamaitha Kagia (hereinafter referred to applicants) have come to this court seeking an order that this court be pleased to stay execution of the order of this ruling of Hon. B. O. Ochieng CM delivered on 21/2/2024 in Nakuru CM ELC no 343 of 2018 (Samuel Ng'ang'a) v Margaret Kwamboka Thiong'o and Naomi Wamaitha Kagia pending to hearing of the appeal herein. That costs of the application be in the appeal.
2. The application is made on the grounds that the orders made by the B Ochieng CM on 21/2/2024 have the residual effect of having the land no Nakuru/Municipality/Block 22/505 which is a totally different parcel of land from the one pleaded thus Parcel Nakuru/Municipality/Block 22/177 transferred to the respondent yet Nakuru/Municipality/Block 22/505 does not belong to any of the parties herein and was never part of the pleadings and evidence. Further, the applicants state that the ruling violate Articles 40 and 50 of the *Constitution* because the owner of parcel no Nakuru/Municipality/Block 22/505 will be deprived of their property unheard. The applicants contend that they will suffer substantial loss if the orders are not granted because someone shall be condemned unheard.
3. The respondent has filed a reply to the application and states that the applicant has failed to demonstrate to the required legal threshold that they stand to suffer any substantial loss unless the orders sought herein are made. In any event, the Appellants/Applicants purport to lodge an appeal on behalf of a person whose existence is only known to them.



4. The respondent contends that the fact that the execution has been done or commenced does not in itself show that the Appellants/Applicants stand to suffer substantial loss.
5. Lastly, that the Appellants/Applicants have not provided any security for the due performance of orders of the trial court.
6. I have considered the application, supporting affidavit and the replying affidavit and do find that suit property Nakuru/Municipality/Block 22/505 belongs to George Mwadime Ntonge who is not a party to this suit and therefore appellant applicant cannot lodge a complaint on behalf of the said owner of this property.
7. Though the applicants have filed the application without inordinate delay they have not demonstrated any interest in Nakuru/Municipality/Block 22/505 and therefore have not demonstrated any substantial loss if stay is not granted as they have no interest in the property. Having failed to demonstrate substantial loss or any loss at all, I do dismiss the application with costs.

RULING DATED, SIGNED AND DELIVERED ELECTRONICALLY ON THE 26TH DAY OF JULY 2024.

A.O.OMBWAYO

JUDGE

