



**Kiogora v Munyua (Sued as the legal representative of the Estate of Monica Nkoroi - (Deceased) & another (Environment and Land Appeal E012 of 2024) [2024] KEELC 6190 (KLR) (18 September 2024) (Ruling)**

Neutral citation: [2024] KEELC 6190 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT MERU  
ENVIRONMENT AND LAND APPEAL E012 OF 2024  
CK NZILI, J  
SEPTEMBER 18, 2024**

**BETWEEN**

**DAVID KIOGORA ..... APPELLANT**

**AND**

**JOSHUA MUGAMBI MUNYUA (SUED AS THE LEGAL REPRESENTATIVE OF THE ESTATE OF MONICA NKOROI - (DECEASED) ..... 1<sup>ST</sup> DEFENDANT  
LAWRENCE MUTWIRI KIBITI (SUED AS THE LEGAL REPRESENTATIVE OF THE ESTATE OF JOANINA REGERIA - DECEASED) ..... 2<sup>ND</sup> DEFENDANT**

**RULING**

1. The court, by an application dated 29.6.2024 is asked to stay the execution of a judgment of the lower court now appealed against. The reasons are contained on the face of the application and in the supporting affidavit of David Kiogora, who says that he is the registered owner of L.R No. Kiirua/Kiirua/1013, acquired from his late mother which he has extensively developed.
2. After the lower court judgment, the applicant avers that his title deed risks revocation to revert to his late mother as per an official search dated 19.6.2024 showing the owner as Sabera Mutimbi as the proprietor by 9.6.1999.
3. The applicant avers that the respondents were in the process of acquiring a chief's letter to lodge a succession cause to distribute the estate among themselves, which shall prejudice him, especially when they were not in occupation of the land or having any developments thereon.
4. The application is opposed by a replying affidavit sworn by Lawrence Mutwiri on 8.7.2024 for the inordinate delay, lack of proof of substantial loss, and lacking merits.
5. With leave of court, parties filed written submissions dated 12.7.2024 and 15.7.2024.



6. A party seeking a stay of execution has to apply timeously, demonstrate substantial loss offer security for the due realization of the decree should the appeal not succeed, and lastly, establish that it is in the interest of justice to grant the orders sought.
7. The law has not stated what amounts to inordinate delay. It all depends on the circumstances of each case for even a one-day delay would be inordinate. See *Wachira Nyaga vs Patrick Wamwirwa* (2018) eKLR and *Cecilia Wanja Waweru vs Jackson Wainaina Muiruri & another* (2014) eKLR.
8. Substantial loss is what is to be stopped from happening, for it would negate the essential core or substratum of the appeal. See *James Wangalwa vs Naliaka Cheseto* (2012) eKLR it has to be demonstrated with tangible and cogent evidence. It is not enough to allege that the execution process is underway.
9. In *Butt vs Rent Restriction Tribunal* (1919) eKLR, the court said that stay should not be refused if there are reasonable grounds for granting it. Exceptional circumstances have not been demonstrated by the applicant other than alleging without proof, extensive developments and occupation of the suit land. Reversal of the title deed to the name of the late mother has not been proved. How the applicant would suffer if the suit land is subjected to a succession process alongside the interest of other beneficiaries has not been explained. See *RWW vs. CKW* (2019) eKLR and *Awale Transporters Ltd vs Kelvin Perminus Kimanzi* (2020) eKLR.
10. In the premises, I find the application lacks merits. It is dismissed with costs. Lower court file be availed.

**DATED, SIGNED, AND DELIVERED VIA MICROSOFT TEAMS/OPEN COURT AT MERU ON THIS 18th DAY OF SEPTEMBER, 2024**

In presence of

C.A Kananu

Parties

Miss Maore for respondents

Kithinji for the applicants

**HON. C K NZILI**

**JUDGE**

