



Broadwell Limited v Daylight Self-Help Group (Environment & Land Case 998 of 2016) [2024] KEELC 13986 (KLR) (17 December 2024) (Ruling)

Neutral citation: [2024] KEELC 13986 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT & LAND CASE 998 OF 2016
LN MBUGUA, J
DECEMBER 17, 2024**

BETWEEN

BROADWELL LIMITED PLAINTIFF

AND

DAYLIGHT SELF-HELP GROUP DEFENDANT

RULING

1. Before me is the Defendant’s Notice of Motion dated 24.10.2024 seeking orders of stay of execution of the judgment delivered on 18.2.2021 pending the hearing and determination of an intended appeal. The defendants contend that they are aggrieved by this court’s ruling of 17.10.2024 in which their application to set aside the aforementioned judgment was dismissed. The averments set out in the application are more or less what the applicants had stated in their application dated 24.1.2024 (the one which gave rise to the ruling of 17.10.2024).
2. The application is opposed vide the Replying Affidavit of Vincent Sakwa, a Co-director of the plaintiff. He contends that the application is similar to the one dated 24.1.2024 and that no new issues have been raised.
3. I have considered the rival arguments including the submissions filed. As rightly submitted by the respondent, the issues raised by the applicants are similar to what was raised in their application dated 24.1.2024, save that the applicants now desire to lodge an appeal.
4. In *Michael Ntouthi Mithu v Abraham Kivondo Musau* [2021] eKLR the court stated that:

“In an application for stay, the court must consider the overriding objective and balance the interest of the parties to the suit since the court is enjoined to place the parties on equal footing. Since the overriding objective aims, inter alia, to facilitate the just, expeditious, proportionate and affordable resolution of the civil disputes governed by the Act, the



balancing of the parties' interest is paramount in an application for stay of execution pending appeal”.

5. Though the applicants have rehashed similar sentiments to those expressed in their application dated 24.1.2024, I note that this time round, the applicants desire to lodge an appeal. To this end, they have lodged a Notice of Appeal dated 22.10.2024 depicting their seriousness to file an appeal. In that regard, the court allows the application in the following terms;
 - i. An order of Stay of Execution of the judgment is hereby granted for a period of 45 days from the date of delivery of this ruling.
 - ii. The applicants are condemned to pay the costs of the application.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 17th DAY OF DECEMBER 2024 THROUGH MICROSOFT TEAMS.

LUCY N. MBUGUA

JUDGE

In the presence of:

Maina for Plaintiff

Juma for Defendant

Court Assistant: Vena

