



**Kibuna v County Government of Nairobi & 4 others (Environment & Land  
Case 529 of 2018) [2024] KEELC 13926 (KLR) (17 December 2024) (Ruling)**

Neutral citation: [2024] KEELC 13926 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI  
ENVIRONMENT & LAND CASE 529 OF 2018  
LN MBUGUA, J  
DECEMBER 17, 2024**

**BETWEEN**

**JEDIDA NGINA KIBUNA ..... PLAINTIFF**

**AND**

**COUNTY GOVERNMENT OF NAIROBI ..... 1<sup>ST</sup> DEFENDANT**

**ABRAHAM MWANGI NJIHIA ..... 2<sup>ND</sup> DEFENDANT**

**THE CHIEF LAND REGISTRAR ..... 3<sup>RD</sup> DEFENDANT**

**MORRIS GITONGA NJUE ..... 4<sup>TH</sup> DEFENDANT**

**VERA MWASI ..... 5<sup>TH</sup> DEFENDANT**

**RULING**

1. This ruling relates to the application dated 6.9.2024 brought forth by the 2<sup>nd</sup> defendant who seeks a stay of the proceedings herein pending determination of an intended appeal.
2. The application is based on grounds on the face of the application and the supporting affidavit of Abraham Mwangi Njihia (2<sup>nd</sup> defendant). He is aggrieved by this court's ruling of 22.2.2024 in which the court barred the applicant from making reference to the statement of Eric Obwao and that no witness summons were to be issued at this stage. The applicant is aggrieved by the said ruling and intends to appeal at the Court of Appeal. To this end, he has filed a notice of appeal dated 1.3.2024.
3. The 1<sup>st</sup> defendant has opposed the application via Grounds of Opposition dated 22.11.2024 where it is averred that there was inordinate delay in filing the application, and that the Notice of Appeal stands as withdrawn in accordance with rule 85 of the Court of Appeal rules of 2022 as the appeal was not instituted.
4. I have considered all the arguments raised herein including the rival submissions.



5. In the case of Global Tours and Travels Limited; Nairobi H.C. winding up cause No. 43 of 2000 cited in Kenya Power & Lighting Company Limited v. Esther Wanjiru Wakabi [2014] eKLR, the court stated that the grant of a stay of proceedings is a matter of judicial discretion to be exercised in the interest of justice (Also see Ezekiel Male Musembi v. H. Young & Company (EA) Limited [2019] EKR).
6. I find that the current application was lodged on 6.9.2024 7 months after the ruling of 22.2.2024. Even then, the said application was not filed under a certificate of urgency, of which a certificate of urgency to trigger the hearing of the aforementioned application was only filed on 18.11.2024! Thus, there is unreasonable and inordinate delay in the filing of the application.
7. Secondly, I find that though a notice of appeal was allegedly filed at the Court of Appeal (the same is dated 1.3.2024), there is no evidence of a substantive appeal having been lodged at the Court of Appeal as at 6.9.2024.
8. Finally, I find that this matter is at the tail end of the trial, hence the dictates of justice demand that the matter be finalized expeditiously.
9. In that regard, the application dated 6.9.2024 is dismissed with costs to the respondents.

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 17<sup>th</sup> DAY OF DECEMBER 2024 THROUGH MICROSOFT TEAMS.**

**LUCY N. MBUGUA**

**JUDGE**

In the presence of:

Kwang'a for the Plaintiff

Ondabu for 2<sup>nd</sup> Defendant

Njeru for 4<sup>th</sup> and 5<sup>th</sup> Defendants

Court Assistant: Vena

