



**Morop Distributors (K) Limited & another v Nairobi City County Government & 4 others
(Environment & Land Case 178 of 2009) [2023] KEELC 364 (KLR) (26 January 2023) (Ruling)**

Neutral citation: [2023] KEELC 364 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT & LAND CASE 178 OF 2009
LN MBUGUA, J
JANUARY 26, 2023**

BETWEEN

MOROP DISTRIBUTORS (K) LIMITED 1ST PLAINTIFF

JOHN GATHAMA MAINGI 2ND PLAINTIFF

AND

NAIROBI CITY COUNTY GOVERNMENT 1ST DEFENDANT

JOB KIPNANDI CHEBON 2ND DEFENDANT

N K BROTHER 3RD DEFENDANT

ATTORNEY GENERAL 4TH DEFENDANT

STEP AHEAD LIMITED 5TH DEFENDANT

RULING

1. Coming up for determination is an application dated July 26, 2022 brought forth by the 1st plaintiff seeking orders that there be a stay of proceedings herein pending the hearing and determination of an appeal in relation to the ruling of this court delivered on May 26, 2022.
2. The application is premised on a Supporting Affidavit of Joyce Cheronu the advocate for the applicant dated July 26, 2022 and a further affidavit.
3. The applicant contends that it is aggrieved by the ruling of this court dated May 26, 2022 in which their application dated June 17, 2021 to amend their pleadings was declined. It is averred that the orders sought will not occasion any prejudice to the respondents and that the intended appeal has high chances of success. The applicant has availed a ruling from the court of appeal in which leave to file a notice of appeal out of time was granted.



4. The 2nd plaintiff has opposed the application via the Replying Affidavit of John Gathama Maingi, its director who avers that the application is an abuse of the court's process and a new scheme by the applicant to delay the matter. The deponent also avers that no appeal has been filed yet.
5. I have considered all the arguments raised herein including the rival submissions. Whether to grant a stay of proceedings or further proceedings is a matter of judicial discretion – see *Kenya Power & Lighting Company Limited vs Esther Wanjiru Wokabi* [2014] eKLR, *Watu Credit v Geoffrey Mokaya Aboki Karen Chepkurui* [2022] eKLR, further each case depends on its own facts; see *Ezekiel Muke Musembi v H. Young & Company (EA) Limited* [2019] eKLR.
6. I find that the entire ruling delivered by this court on May 26, 2022 aptly captures the reasons as to why the proceedings herein should not be stayed and I need not belabor the same.
7. Further, I find that the court of appeal ruling dated September 30, 2022 only granted the applicant leave to appeal out of time and no more. I therefore come to the conclusion that the current application dated July 26, 2022 is not merited. The same is hereby dismissed with costs to the 2nd plaintiff. The court will however give a far off date for hearing in the final term of the year in order to give the applicant sufficient time to ventilate the issue of stay of proceedings.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 26TH DAY OF JANUARY, 2023 THROUGH MICROSOFT TEAMS.

LUCY N MBUGUA

JUDGE

In the presence of:-

Omolo for 2nd plaintiff

***Were for 3rd defendant**

Allan Kamau for 4th defendant

Court assistant: Eddel

