



REPUBLIC OF KENYA



**KENYA LAW**  
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**Muganda (Suing on Her Behalf and as Administrator of the Estate of  
Muganda Odunga Omolo - Deceased) & 6 others v Muga & 10 others (Family  
Appeal E004 of 2025) [2025] KEHC 7231 (KLR) (30 May 2025) (Ruling)**

Neutral citation: [2025] KEHC 7231 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT SIAYA  
FAMILY APPEAL E004 OF 2025**

**DK KEMEL, J  
MAY 30, 2025**

**BETWEEN**

**HELINDA AKOTH MUGANDA (SUING ON HER BEHALF AND AS  
ADMINISTRATOR OF THE ESTATE OF MUGANDA ODUNGA OMOLO -  
DECEASED) ..... 1<sup>ST</sup> APPELLANT**  
**JOSEPH ONYANGO MUGANDA ..... 2<sup>ND</sup> APPELLANT**  
**TITUS OWINO MUGANDA ..... 3<sup>RD</sup> APPELLANT**  
**GEORGE ODHIAMBO MUGANDA ..... 4<sup>TH</sup> APPELLANT**  
**JOSEPH AKOTH OMOLLO ..... 5<sup>TH</sup> APPELLANT**  
**MICHAEL OTIENO MUGANDA ..... 6<sup>TH</sup> APPELLANT**  
**STEPHEN OTIENO AWUOR(ANDWIYO) ..... 7<sup>TH</sup> APPELLANT**

**AND**

**DANIEL MUGA ..... 1<sup>ST</sup> RESPONDENT**  
**CHARLES WILLIS OGOLA ODUOR ..... 2<sup>ND</sup> RESPONDENT**  
**MIKE ODUOR NYAKURE ..... 3<sup>RD</sup> RESPONDENT**  
**FREDRICK OWUOR ..... 4<sup>TH</sup> RESPONDENT**  
**MANFREDOMONDI NYAKURE ..... 5<sup>TH</sup> RESPONDENT**  
**VINCENT OWINO ALOO ..... 6<sup>TH</sup> RESPONDENT**  
**CHARLES OTIENO MUGA ..... 7<sup>TH</sup> RESPONDENT**  
**ELIJA ODHIAMBO MUGA ..... 8<sup>TH</sup> RESPONDENT**  
**JOSEPH ODUOR MUGA ..... 9<sup>TH</sup> RESPONDENT**



**ANN JUMBA GUMBA ..... 10<sup>TH</sup> RESPONDENT**

**JAKIM OHUONO ODUOR ..... 11<sup>TH</sup> RESPONDENT**

## **RULING**

1. The Appellant/Applicants filed an application dated 23/1/2025 seeking the following reliefs;
  1. Spent
  2. Spent
  3. That there be stay of implementation of the ruling and any consequential orders arising therefrom in Siaya MC Succession Cause No. 9/1986 delivered on 16/12/2024 pending the hearing and determination of the application.
  4. That the Honourable court be pleased to grant leave to the applicant to appeal the ruling of the lower court delivered on 16/12/2024.
  5. That the Honourable court be pleased to deem the Memorandum of Appeal lodged herewith in this matter as properly on record.
  6. That the costs of the application be in the cause.
2. The application is supported by the grounds set out thereunder and the affidavit of 2<sup>nd</sup> Appellant/Applicant sworn on even date. The Applicants' gravamen is inter alia; that on 16/12/2024 the lower court delivered a ruling revoking the grant and ordering the Land Registrar to cancel all entries and titles acquired from the revoked grant; that the Appellants are dissatisfied by the said ruling and intent to appeal against the entire ruling since the trial magistrate did not have jurisdiction in the matter; that the Appellants have arguable grounds of appeal as per the annexed draft of Memorandum of Appeal; that in the absence of stay orders the Appellants stand being rendered destitute since the Respondent have began the process of implementing the orders of the trial court and therefore their appeal stands to be rendered nugatory; that it is just and equitable to grant the orders sought; that the application has been made without unreasonable delay.
3. The Respondents upon being served with the application raised a Notice of Preliminary Objection dated 12/2/2025 seeking to strike out the Appellants application but the same was dismissed on 14/3/2025 and the Respondents directed to file their response on the application.
4. The application was opposed. The 1<sup>st</sup> Respondent filed a replying affidavit sworn on 29/4/2025 wherein he averred inter alia; that the grant of letters of administration was obtained through concealment of the material facts and left out the genuine beneficiaries which led to the revocation of the grant by the trial court; that the administrator upon receiving the suspect grant went behind the Silwal clan and transferred parcels No. Siaya/Mulaha/1759, Siaya/Nyandiwa/1881, 1874 to himself and left out the rightful beneficiaries; that due to the aforesaid fraud, the trial court properly revoked the grant and ordered fresh petition of the letters of administration of the estate of Onyango Apoli to enable the beneficiaries get their shares of the estate; that he strongly opposed the execution application by the Appellants as they had not demonstrated any substantial loss they are likely to face should the execution proceed; that the Appellants' assertion in paragraph 4 of the grounds in the Notice of motion that they risk being rendered destitute should the execution proceed is false and misleading and does not amount to substantive loss since they are not in occupation of the suit lands and that they are not the true beneficiaries of the estate of Onyango Apoli; that the Respondent have been in occupation



of the suit lands as a clan from 1800's thus would have been greatly inconvenienced if the trial court failed to revoke the grant of letters of administration because they would be facing eviction; that the Appellants have reasonably delayed in filing the application in that appeal to High Court should be lodged within 30 days after the judgment appealed from; that the request for leave to lodge appeal out of time should be rejected because the Appellants are late and therefore the appeal is time barred.

5. The application was canvassed by way of written submissions. Both parties duly complied.
6. The Appellants' counsel filed submissions dated 26/1/2025 reiterated that the principles applicable before the grant of stay of execution are well settled in law and went ahead to cite the case of Lucy Waithera Kimanga & 2 others v John Waiganjo Gichuri [2015] KEHC 6120 (KLR) where the court held:

“That explains why the law on stay of proceedings pending appeal will be concerned with the sole question of whether it is in the interest of justice to order a stay of proceedings. And in deciding whether to order a stay, the court should essentially weigh the pros and cons of granting or not granting the order. It will also consider such factors as the need for expeditious disposal of cases, the prima facie merits of the intended appeal, in the sense of not whether it will probably succeed or not but whether it is an arguable one, the scarcity and optimum utilization of judicial time and whether the application has been brought expeditiously.”

7. Counsel also cited the case of Mwalukumbi v Mkirema (Land Case Appeal E011 of 2024) [2024] KEELC 5840 (KLR) (Environment and Land) (31 July 2024) (Ruling) where the Court stated the factors to consider in applications for stay pending appeal viz:

“In Butt vs. Rent Restriction Tribunal [1979] eKLR it was stated that the power of the court to grant or refuse an application for a stay of execution is discretionary, and the discretion should be exercised in such a way as not to prevent an appeal. Secondly, the general principle in granting or refusing a stay is, if there is no other overwhelming hindrance, a stay must be granted so that an appeal may not be rendered nugatory should the appeal court reverse the judge's discretion. Thirdly, a judge should not refuse a stay if there are good grounds for granting it merely because, in his opinion, a better remedy may become available to the applicant at the end of the proceedings. Finally, the court in exercising its discretion whether to grant or refuse an application for stay will consider the special circumstances of the case and its unique requirements.”

8. It was submitted that the properties have gone through the hands of several family members through different succession proceedings as can be seen in the Annexure marked JOA 2 in the Further Affidavit of the 5<sup>th</sup> Appellant since the succession was filed several years ago. That If the stay of implementation of the order of the lower court is not granted, it would create chaos. For instance, the deceased was never the owner of the property known as Siaya/Nyandiwa/1874 (see Annexure marked JOA 2). This property was registered to the son of the deceased herein as the first registered owner. It is therefore prejudicial to the beneficiaries of the Estate of Muganda for this property to be included in the list in the first place.
9. Further, it was submitted that the Respondents are not entitled to petition the court over the estate of the deceased and have not bothered demonstrating that to this Court. That the revocation of the grant comes more than 40 years since the issue of the grant revoked by the impugned ruling. Further, as can be gleaned from paragraphs 5 and 6 in the impugned ruling attached to the Supporting Affidavit of the



3<sup>rd</sup> Appellant and marked JOM1, the Respondent's claimed that the Appellants who are his cousins hold the suit property in trust. The claim of trust having been brought in 2022 since 1986 was time barred and ought not to have been considered by the lower court by virtue of the provisions of Section 21 of the Limitation of Actions Act.

10. It was also submitted that it would be prejudicial to the Applicants for the Stay sought not to be granted since it would have a domino effect that is likely to clog this court with new suits. It is instructive to note that the Respondents have not refuted that there is a land suit pending before Siaya ELC No.30A of 2020 between the parties herein.
11. It was submitted that the Appeal was filed in good time. That there was no inordinate delay in filing the Appeal and that the instant application seeking stay of implementation of the order of the lower Court. The Respondent's contention in the Replying Affidavit is that the Appeal has been filed out of time is not factual. First, the Law of Succession Act and the Probate and Administration Rules does not set timelines within which an appeal should be filed nor do they state that every appeal is as a matter of right and /or requires prior leave of court.
12. Even if there was a time limitation within which to file an appeal and the Civil Procedure Act and the rules were applicable, an appeal to the High Court would have to be lodged within 30 days of the impugned decision, taking into account that the days between 21<sup>st</sup> of December 2024 and 13<sup>th</sup> of January 2025 (both days inclusive) would not be counted. In total, these are 24 days.
13. Despite the foregoing, Rule 63 of the Probate and Administration Rules which imports the application of Order 50 Rule 4 of the Civil Procedure Rules in succession matters states that during the 24 days aforesaid, time does not run. Having been filed 38 calendar days after the impugned ruling, if the 24 days when time does not run are taken away, the Appeal herein was filed within 14 days of the ruling which is well within the 30 days required to appeal the decision of a subordinate court to the High Court in civil matters. Had it been a civil matter, we would have been in time. However, the Law of Succession Act and the Probate and Administration Rules are silent on the time within which to lodge an appeal.
14. It was submitted therefore that filing an appeal within 14 days of a ruling shows that there was no delay at all. From the foregoing, the Respondent's contention that the Appeal has been filed out of time and that the Appellant ought to have sought enlargement of time are misplaced as there was no delay and the Appellants do not seek enlargement of time in the first place.
15. On the issue of leave to appeal, while there is nothing in statute expressly requiring leave before appealing or expressly giving the right to appeal, and taking into consideration the conflicting precedents on this issue from superior Courts, out of the abundance of caution, the Appellants seek leave to appeal the decision of the lower Court. We place reliance on In re Estate of the Late Joseck Thuo Ngeta (Deceased) [2024] KEHC 7155 (KLR) which stated at paragraphs 41 to 49 that:
  - “ 41. There are conflicting decisions from the Court of Appeal on whether the judgment and decree from the High Court to the Court of Appeal is appealable with leave of the High Court or not.”
  49. In the circumstances, I find that the instant application is rendered incompetent by failure to seek leave to appeal.”
16. It was submitted that in the present case, the Appellants seek orders of the court to grant leave to the Appellants to appeal and to deem the Memorandum of Appeal lodged herein to having been filed properly. It is in the interests of justice that the orders sought be granted. The Respondents have



rightfully stated that they are distant cousins to the Appellants having shared a great grandfather. In the lower Court they claimed that the Petitioner, Muganda Odunga was holding the properties in trust. The properties have gone through a number of succession proceedings. The Appellants therefore pray that the Court maintains the status quo which will not prejudice the Respondents. If stay is not granted, then the appeal herein shall be rendered an academic exercise. The Appellants therefore prayed that the orders sought be granted.

17. The Respondents vide the submissions dated 29/4/2025 raised two issues for determination namely; whether the application is fit for stay orders pending appeal and secondly whether the court should grant leave to file appeal out of time.
18. As regards the first issue, it was submitted that there must be finality in litigation. The learned counsel urged the court to balance the rights of the Respondents against the rights of the Appellants and to ensure that the Respondents are allowed to enjoy the fruits of the judgment delivered in their favour. Further, it was submitted that the Appellants have not complied with the provisions of Order 42 Rule 6(2) of the Civil Procedure Rules. That the Appellants have not established how they will suffer substantial loss if stay is not granted. It was contended that the order of the trial court was in regard to a revoked grant and that all parties were directed to go back to the drawing board and start the process of distribution of the estate and hence the grievances of the Appellants will be addressed at that stage. In that regard, there is no loss suffered by the Appellants since it is the Respondents who have been in possession of the land for very long time. Further, the order on status quo already made by the court then none of the parties stand to suffer any loss pending determination of the appeal.
19. The Respondent submitted that the Appellants delayed unreasonably in filing the application for stay. It was submitted that the delay was 38 days after the impugned ruling was made. According to the Respondents this period is unreasonable and that the application should be rejected.
20. As regards the condition for security for due performance of the decree, it was submitted that the Respondents view the dispute as a non-monetary decree and therefore they will leave it to the court to decide it.
21. As regards the request for leave to lodge appeal out of time, the Respondents submitted that the Appellants do not deserve to be given leave because the Respondents stand to be prejudiced. It was also submitted that the intended appeal is not arguable since the revoked grant was as a result of the Appellant fraud through the former petitioner late Muganda Odunga Omollo. Further, it was submitted that the Appellants had not provided sufficient cause for the delay as required by Section 79G of the *Civil Procedure Act*.
22. Finally, the Respondent submitted that the Appellants application lacked merit and should be dismissed with costs.
23. I have considered the application, rival affidavits and submissions. I find the issues for determination are firstly whether the Appellants merit for an order of stay pending appeal and secondly, whether this court should grant leave to the Appellants to lodge an appeal out of time.
24. As regards the first issue, it is noted that the order of the trial court was issued on 16/12/2024 wherein a grant of letters of administration was revoked and that titles to land were ordered to be cancelled and that the same do revert in the name of the deceased Onyango Apoli pending the parties filing the appropriate application for letters of grant and thereafter summons for confirmation of grant. It is not in dispute that the matter involves land where a large group of people have been residing for several years. In fact, from the rival affidavits, it became clear that there are claims over the land by rival clans and therefore it is obvious that the suit has sucked in a number of clan members who are likely to



be affected by the court orders. Indeed, the Applicants' counsel pointed out in his submissions that the enforcement of the trial court's order is likely to cause upheaval in the community. This then calls for the need to issue the requisite order of stay pending further orders from this court. Orders of stay of execution in the High Court are governed by the provisions of Order 42 Rule 6(2) of the Civil Procedure Rules which must be complied by all parties seeking such an order. The principles applicable before the grant of stay of execution are well settled in law. In the case of *Lucy Waithera Kimanga & 2 others v John Waiganjo Gichuri* [2015] KEHC 6120 (KLR) the court held:

“That explains why the law on stay of proceedings pending appeal will be concerned with the sole question of whether it is in the interest of justice to order a stay of proceedings. And in deciding whether to order a stay, the court should essentially weigh the pros and cons of granting or not granting the order. It will also consider such factors as the need for expeditious disposal of cases, the prima facie merits of the intended appeal, in the sense of not whether it will probably succeed or not but whether it is an arguable one, the scarcity and optimum utilization of judicial time and whether the application has been brought expeditiously.”

25. Again, in the case of *Mwalukumbi v Mkirema* (Land Case Appeal E011 of 2024) [2024] KEELC 5840 (KLR) (Environment and Land) (31 July 2024) (Ruling) the Court stated the factors to consider in applications for stay pending appeal viz:

“In *Butt vs. Rent Restriction Tribunal* [1979] eKLR it was stated that the power of the court to grant or refuse an application for a stay of execution is discretionary, and the discretion should be exercised in such a way as not to prevent an appeal. Secondly, the general principle in granting or refusing a stay is, if there is no other overwhelming hindrance, a stay must be granted so that an appeal may not be rendered nugatory should the appeal court reverse the judge's discretion. Thirdly, a judge should not refuse a stay if there are good grounds for granting it merely because, in his opinion, a better remedy may become available to the applicant at the end of the proceedings. Finally, the court in exercising its discretion whether to grant or refuse an application for stay will consider the special circumstances of the case and its unique requirements.”

26. Order 42 Rule 6(2) of the Civil Procedure Rules provides three conditions which must be satisfied by an Applicant seeking for an order of stay pending appeal. They are as follows:

- a. Whether the Applicant is likely to suffer substantial to suffer substantial loss due to execution of the decree to be appealed.
- b. Whether the Applicant has unreasonably delayed in filing the application.
- c. Whether the Applicant has furnished security for due performance of the decree.

27. As regards the first condition, it is noted that the suit in the lower court involved a large group of parties and clans all lay claim to the suit properties. It has also transpired that the said persons have been residing on the suit properties for many years and that the revocation of the grant and cancellation of titles is likely to cause some bit of chaos in the area. Learned counsel for the Respondents has submitted that the Applicants do not stand to suffer substantial loss in that it is the Respondents who are in occupation of the lands and therefore the Appellants do not suffer any loss. On the other hand, counsel for the Applicants submitted that the properties have gone through the hands of several family members through different succession proceedings as can be seen in the Annexure marked JOA 2 in the Further Affidavit of the 5<sup>th</sup> Appellant since the succession was filed several years ago. That



If the stay of implementation of the order of the lower court is not granted, it would create chaos. For instance, the deceased was never the owner of the property known as Siaya/Nyandiwa/1874 (see Annexure marked JOA 2). That this property was registered to the son of the deceased herein as the first registered owner. That it is therefore prejudicial to the beneficiaries of the Estate of Muganda for this property to be included in the list in the first place. I find the sentiments of counsel for the Applicants to be rather persuasive in that upon the revocation of the grant the status quo is likely to be affected before the intended appeal is determined. There is therefore need to grant conservatory orders to preserve the status quo as parties canvass their intended appeal. No prejudice will be occasioned to the Respondents who have confirmed that they are in occupation of the lands and therefore the status quo can be maintained pending determination of the intended appeal. As contended by the counsel for the Applicants, if no order of stay is granted, the same would have a domino effect that is likely to clog this court with new suits. It has been alluded by the parties through their rival affidavits that there is a land suit pending before Siaya ELC No.30A of 2020 between the parties herein. That being the position, an order of status quo is necessary in the circumstances.

28. As regards the second condition, the Applicants have maintained that they filed the application in good time and further maintained that there was no inordinate delay in filing the Appeal and that the instant application seeking stay of implementation of the order of the lower court. The Respondent's contention in the replying affidavit is that the appeal has been filed out of time. It is noted that the application was filed 38 days after the impugned judgment of the trial court. ordinarily, in civil suits, governed by the Civil Procedure Act and Rules, the requisite period to lodge appeal is 30 days. It appears therefore that the application was filed 8 days outside the period provided. Indeed, 8 days in my view is not unreasonable delay and therefore the application ought to be considered in the interest of justice. Learned counsel for the Applicant had brought in a new dimension namely that the Law of Succession Act and Rules does not provide timelines for purposes of appeal. Indeed, I am in agreement with the said learned counsel in that parties seeking to lodge appeals in succession matters are only required to seek leave from the court that handled the matter. A perusal of the the Law of Succession Act and the Probate and Administration Rules indicates that they do not set timelines within which an appeal should be filed nor do they state that every appeal is as a matter of right and /or requires prior leave of court. learned counsel for the Applicants has gone further to submit that even if there was a time limitation within which to file an appeal and the Civil Procedure Act and the rules were applicable, an appeal to the High Court would have to be lodged within 30 days of the impugned decision, taking into account that the days between 21<sup>st</sup> of December 2024 and 13<sup>th</sup> of January 2025 (both days inclusive) would not be counted and that in total, these are 24 days. Learned counsel submitted that despite the foregoing, Rule 63 of the Probate and Administration Rules which imports the application of Order 50 Rule 4 of the Civil Procedure Rules in succession matters states that during the 24 days aforesaid, time does not run. Having been filed 38 calendar days after the impugned ruling, if the 24 days when time does not run are taken away, the Appeal herein was filed within 14 days of the ruling which is well within the 30 days required to appeal the decision of a subordinate court to the High Court in civil matters. Had it been a civil matter, we would have been in time. However, the Law of Succession Act and the Probate and Administration Rules are silent on the time within which to lodge an appeal.
29. I am in full agreement with the sentiments of the said counsel in that the days between 21<sup>st</sup> December and 13<sup>th</sup> January of every year (both days inclusive) would not be counted as regards matters of court process e.g filing and service of court process pursuant to the provisions of Order 50 Rule 4 of the Civil Procedure Rules. That being the position, the impugned ruling having been delivered on 16/12/2024 and the present application being lodged on 23<sup>rd</sup> January, 2025, the Applicants application aforesaid was filed within the stipulated period. Hence, I find the Applicants have satisfied this condition.



30. As regards the third condition namely the provision of security for the due performance of the decree that would be binding upon the Applicants, it is a requirement that an Applicant seeking for an order of stay pending appeal to provide the same. This court has already granted prayer 2 of the Applicants' application pending determination thereof. Learned counsel for the Respondent has submitted that the application does not relate to a monetary decree and therefore the Respondents have refrained from submitting on the issue of security for the due performance of the decree. Indeed, the orders sought by the Applicants appear to be that the status quo on the ground be maintained pending determination of the intended appeal. As the Respondents appear not to have a problem with the issue of deposit of security, I find that the Applicants merit an order of status quo pending determination of the intended appeal. The maintenance of the status quo will avoid a situation where the intended appeal is rendered an academic exercise.
31. As regards the second issue, it is noted that the impugned ruling was delivered on 16/12/2024 and ordinarily an appeal ought to have been lodged within 30 days so that the same should have been filed on or before 16/1/2025. However, the Applicants have brought up this application together with the Memorandum of Appeal 38 days thereafter. Pursuant to Section 79G of the *Civil Procedure Act* the Applicants were under obligation to satisfy the court that they have good and sufficient cause for not filing the appeal in time. As earlier noted above, Order 50 Rule 4 of the Civil Procedure Rules provides that court processes such as filing, service etc between the 21<sup>st</sup> December and 13<sup>th</sup> January (both days inclusive) of every year are omitted from any computation of time whether under these rules or any order of the court except on application in respect of a temporary injunction. That being the position, the Applicants' delay is excusable.
32. The Respondents' counsel has taken issue with the delay by the Applicants to lodge appeal in time and if not, they should have sought leave from the trial court. However, the issue of leave to appeal has been a daunting matter in that while there is nothing in statute (*Law of Succession Act*) expressly requiring leave before appealing or expressly giving the right to appeal, and taking into consideration the conflicting precedents on this issue from superior Courts, the Appellants request to lodge appeal against the decision of the lower court must be considered. Indeed, pursuant to Article 48 of *the Constitution*, the Applicants are entitled to access justice and that even though they are late, their request must be considered. In *Re Estate of the Late Joseck Thuo Ngeta (Deceased)* [2024] KEHC 7155 (KLR) the court stated at paragraphs 41 to 49 that:
- “41. There are conflicting decisions from the Court of Appeal on whether the judgment and decree from the High Court to the Court of Appeal is appealable with leave of the High Court or not.”
49. In the circumstances, I find that the instant application is rendered incompetent by failure to seek leave to appeal.”
33. Vide prayer 5 of the Applicants' application, they seek orders of the court to grant leave to appeal and to deem the Memorandum of Appeal lodged herein to having been filed properly. It is in the interests of justice that the orders sought should be considered by the court in view of the fact that the suit properties involve both the Applicants and the Respondents together with other members of the clan who have occupied the lands for over forty (40) years. It is appropriate that the parties must be given an opportunity to ventilate their issues before the court so that the matter in controversy can be resolved with finality. The Respondents have rightfully stated that they are distant cousins to the Applicants having shared a great grandfather. In the lower Court they claimed that the Petitioner, Muganda Odunga was holding the properties in trust and that the properties have gone through a number of succession proceedings. I find that it is appropriate that the court maintains the status quo



which will not prejudice the Respondents. It is instructive that if stay is not granted, the intended appeal herein shall be rendered an academic exercise.

34. In view of the foregoing observations, it is my finding that the Applicants' application dated 23/1/2025 has merit. The same is allowed in the following terms:
- a. The Applicants are granted leave to lodge appeal out of time.
  - b. The Memorandum of Appeal lodged herein be and is hereby deemed as properly filed.
  - c. An order of status quo be and is hereby maintained regarding Parcel No. Siaya/Nyandiwa/1759,1874, 1881 pending the determination of the appeal.
  - d. The costs of the application shall abide in the appeal.

**DATED AND DELIVERED AT SIAYA THIS 25<sup>TH</sup> DAY OF MAY, 2025.**

**D. KEMEI**

**JUDGE.**

In the presence of:

N/A Jeji.....for Applicants

N/A M/s Nyambeki.....for Respondents

Okumu.....Court Assistant

