



Case Number:	Environment and Land Case 208 of 2017
Date Delivered:	16 Jan 2019
Case Class:	Civil
Court:	Environment and Land Court at Chuka
Case Action:	Ruling
Judge:	Peter Muchoki Njoroge
Citation:	Lucy Karauki Kirambia (suing as the Legal representative of the Estate of Peter Muriungi Kaunga (Deceased) v Muthengi M'mwathi Muthigu & 2 others [2019] eKLR
Advocates:	Mokua for the applicant
Case Summary:	-
Court Division:	Environment and Land
History Magistrates:	-
County:	Tharaka Nithi
Docket Number:	-
History Docket Number:	-
Case Outcome:	-
History County:	-
Representation By Advocates:	One party or some parties represented
Advocates For:	-
Advocates Against:	-
Sum Awarded:	-
<p>The information contained in the above segment is not part of the judicial opinion delivered by the Court. The metadata has been prepared by Kenya Law as a guide in understanding the subject of the judicial opinion. Kenya Law makes no warranties as to the comprehensiveness or accuracy of the information.</p>	

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT CHUKA

CHUKA ELC CASE NO. 208 OF 2017

FORMERLY MERU ELC NO. 169 OF 2013

LUCY KARAUKI KIRAMBIA (suing as the legal representative of the estate of

Peter Muriungi Kaunga (deceased).....PLAINTIFF

VERSUS

MUTHENGI M'MWATHI MUTHIGU.....1ST DEFENDANT

THARAKA DISTRICT LAND ADJUDICATION OFFICER....2ND DEFENDANT

THE HONOURABLE ATTORNEY GENERAL.....3RD DEFENDANT

RULING

1. This application is dated **14th January, 2019** and seeks orders:

1. That this application because of its nature be certified urgent and the same be dealt with on priority basis.
2. That the honourable court be pleased to order stay of execution of the judgment/decision herein pending the hearing and determination of this application.
3. That the honourable court be pleased to order a temporary stay of execution of the judgment/decree herein pending the hearing and determination of the intended appeal.
4. That the honourable court be pleased to grant such other and or better orders as may meet the ends of justice.

2. The application is buttressed by the applicants supporting affidavit sworn on **14th January, 2019** and has the following grounds:

- i) That judgment herein was delivered on **19th day of December, 2018**.
- ii) That the applicant was dissatisfied and has preferred an appeal to the court of appeal.
- iii) That unless stay of execution of the judgment is ordered the applicants/intended appellants stand to suffer irreparable and substantial loss.
- iv) That the applicant's intended appeal has overwhelming chances of success and unless stay is ordered the outcome of the intended (sic) will be rendered nugatory.
- v) That the applicant/intended appellant is ready and willing to deposit reasonable security.
- vi) That no prejudice will be occasioned the respondent.

vii) That this application has been made without any undue delay.

3. At the exparte stage, Mr. Mokuu, the applicant's advocate, told the court that the applicant had already filed a Notice of Appeal and had served it upon Mr. Mwanzia, the plaintiff's advocate. He told the court that his client was willing to offer a deposit for security.

4. Having considered the pleadings in this application and the oral submissions made by the applicant's advocate, I issue the following orders:

a) Prayer 2 in the application is allowed subject to the applicant depositing with court as security the sum of **Kshs. One Million (1000,000/=)** within the **next 30 days** failing which the order of stay granted herein will automatically lapse.

b) The applicant is directed to serve the orders issued today by the court upon the respondents **within 14 days of today**.

c) The application will be heard interpartes on **25th March, 2019**

5. Costs shall be in the cause.

6. It is so ordered.

Delivered in open Court at Chuka this **16th day of January, 2019** in the presence of:

CA: Ndegwa

Mokuu for the applicant

P. M. NJOROGE

JUDGE



While the design, structure and metadata of the Case Search database are licensed by [Kenya Law](#) under a [Creative Commons Attribution-ShareAlike 4.0 International](#), the texts of the judicial opinions contained in it are in the [public domain](#) and are free from any copyright restrictions. Read our [Privacy Policy](#) | [Disclaimer](#)