



**Murguyi v Muiruri (Miscellaneous Civil Application E209 of 2024)
[2024] KEHC 13299 (KLR) (31 October 2024) (Ruling)**

Neutral citation: [2024] KEHC 13299 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
MISCELLANEOUS CIVIL APPLICATION E209 OF 2024
HI ONG'UDI, J
OCTOBER 31, 2024**

BETWEEN

WILSON NATEYA MURGUYI APPLICANT

AND

ALEX NJUGUNA MUIRURI RESPONDENT

RULING

1. The Applicant moved this court by way of a Notice of Motion dated 30th July 2024 seeking the following orders:
 - a. Spent
 - b. That this honourable court be pleased to grant leave to the firm of M/s Okiro and Associates Advocates to come on record after Judgment for the Defendant/Applicant in place of the firm of M/s Wonchuru and Associates Advocates in the matter Nakuru CMCC No. 1275 of 2019.
 - c. That this court be pleased to issue orders of extension of time for filing of Memorandum of Appeal and service in relation to the Ruling and Order of Honourable. K. Kibelion dated the 13th July, 2024 in the matter Nakuru CMCC No. 1275 of 2019.
 - d. That pending the hearing and determination of this application inter-parties, this honourable court be and is hereby pleased to stay execution of the decree and certificate of costs in this matter.
 - e. That the honourable court be and is hereby pleased to set aside the warrants of attachment and sale issued to M/s Direct O. Auctioneers dated 11th July, 2024.
 - f. That the cost of this application be in the cause.



2. The application is premised on the grounds on its face plus the applicant's supporting affidavit. Directions were issued on 1st August, 2024 but as at 17th October, 2024 the respondent though served had not complied with the directions.
3. The applicant in his supporting affidavit averred that despite having the firm of Wonchuru & Associates Advocates as his advocates in the lower court the said firm was not briefing him on what was happening. That he only learnt of the progress of the matter when Direct O. Auctioneers served him with a notice of proclamation of his movable property, on 20th November, 2023. He thus requested for leave to have the firm of M/s Okiri & Associates Advocates to come on record.
4. It is for the same reason that he sought an order extending time for filing his Memorandum of Appeal. The applicant depones that he was never heard before the issuance of the impugned Ruling of 13th June, 2024.
5. The Applicant also prays for stay of execution of the decree and certificate of costs.
6. Annexed to the application is a draft Memorandum of Appeal. It raises substantial issues which this court will be required to address. As mentioned above the application stands unopposed since the respondent has not filed any response to it.
7. From what has been raised in the grounds and affidavit in support of the application my finding is that the applicant ought to be given an opportunity to ventilate his issues, on appeal.
8. In the circumstances I allow the application dated 30th July, 2024 and the following orders shall issue:
 - i. Leave granted to the firm of M/s Okiro & Associates Advocates to come on record for the applicant in the place of M/s Wonchuru & Associates Advocates.
 - ii. Time for filing the Memorandum of Appeal is extended as prayed. The applicant to file and serve his appeal to the Ruling and order by Hon. K. Kibelion dated 13th July, 2024 in Nakuru CMCC No. 1275 of 2019 within 14 days.
 - iii. There shall be stay of execution of the decree and warrants of attachment on condition that the Applicant deposits in court the sum of Ksh 500,000/= being a small fraction of the decretal sum before 3rd December, 2024
 - iv. This Ruling should be served on the respondent immediately

Orders accordingly

DELIVERED VIRTUALLY, DATED AND SIGNED THIS 31ST DAY OF OCTOBER, 2024 IN OPEN COURT AT NAKURU.

H. I. ONG'UDI

JUDGE

