



**Wainaina v Thiga (Civil Appeal 276 of 2023)  
[2024] KEHC 13480 (KLR) (31 October 2024) (Ruling)**

Neutral citation: [2024] KEHC 13480 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KIAMBU  
CIVIL APPEAL 276 OF 2023  
RC RUTTO, J  
OCTOBER 31, 2024**

**BETWEEN**

**SAMUEL MUNGA WAINAINA ..... APPELLANT**

**AND**

**ANN WAIRIMU THIGA ..... RESPONDENT**

**RULING**

1. The respondent/applicant moved court by way of a Notice of Motion Application under Certificate of Urgency all dated 29<sup>th</sup> July, 2024. The Application is supported by the affidavit of Ann Wairimu Thuga. The application seeks that this court be pleased to order “the release of the sum of kshs. 1,940,878 deposited in court as security pursuant to this appeal on 12/10/2023 to the respondent/applicant through the firm of K. Kibiku & Co. Advocates Account No. 1006xxxx NCBA Bank, The Mall Westlands”.
2. The application came for hearing before me on the 14<sup>th</sup> October 2024. Counsel for the applicant informed court that the application was necessitated by the fact that the appeal was dismissed, and that the respondent is required urgently to have implants removed.
3. The applicant also informed court that the appellant/respondent has never filed any response to oppose the application.
4. I have perused the CTS and note that indeed the appellant have not filed any response to the application.
5. I note that by the appellant/respondents were served with the said certificate of urgency and application and a return of service sworn by Henry Abuti Nandwa sworn 5<sup>th</sup> Aug, 2024 filed to proof service.



6. The appellant also failed to attend court on the 14<sup>th</sup> October 2024 when the matter came up for hearing. An affidavit of service sworn by Henry Abuti Nandwa dated 8/10/2024 proof that they were served with the mention notice for 14/10/2024.
7. Consequently, nothing that the application is unopposed, this court proceeds to allow the application dated 29<sup>th</sup> July, 2024 in the following terms.
8.
  - a. Kshs. 1,940,878 deposited in court on 12/10/23 as security to this appeal be released to the respondent/applicant through the firm of K. Kibiku & Co. Advocates Account No. 100658628 NCBA Bank, The Mall Westlands.
  - b. No orders as to costs.Orders accordingly.

**RHODA RUTTO**

**JUDGE**

**RULING DELIVERED VIRTUALLY ON 31<sup>ST</sup> DAY OF OCTOBER 2024 AT NAIROBI.**

Mr. Kibiku for the Respondent

The Firm of Kimondo Gachoka on record for the Appellant- N/A

Court assistant - Peter

