



REPUBLIC OF KENYA



**Akinyi v Ojing & 2 others (Civil Appeal E604 of 2023)  
[2023] KEHC 22989 (KLR) (Civ) (29 September 2023) (Ruling)**

Neutral citation: [2023] KEHC 22989 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

**CIVIL**

**CIVIL APPEAL E604 OF 2023**

**JN MULWA, J**

**SEPTEMBER 29, 2023**

**BETWEEN**

**CATHERINE AKINYI ..... APPELLANT**

**AND**

**MAURICE ODHIAMBO OJING ..... 1<sup>ST</sup> RESPONDENT**

**MALV INVESTMENT ..... 2<sup>ND</sup> RESPONDENT**

**AL ALYAAN MOTORS LTD ..... 3<sup>RD</sup> RESPONDENT**

**RULING**

1. By an application dated July 1, 2023, the Appellant seeks an order that pending hearing and determination of the appeal, the court be pleased to grant a stay of further proceedings arising from the small claims court ruling dated May 26, 2023 which ruling set aside the judgment and decree therefrom.
2. It is averred that the 3<sup>rd</sup> Respondent Al Alyaan Motors executed the decree before the appeal was filed and therefore the application was overtaken by the events.
3. The application is grounded on provisions of Order 42 Rule 6 of the *Civil Procedure Rules* among other provisions, and supporting affidavit of the Applicant.
4. The Respondents did not file responses and invited the court to make a finding.
5. I have considered the undisputed facts that the judgment of the trial court was executed before it was set aside by the ruling dated May 26, 2023 of the trial court which is the subject of the instant appeal.
6. Prayer No 2 of the applicant's application seeks stay of further proceedings in or arising from the trial court's claim, which in my understanding means further hearing of the said case or any other



proceedings before the trial court, which proceedings are nonexistent as there is a judgment whose decree has been executed hence nothing left for hearing.

7. From the above analysis the application dated July 1, 2023 has no basis and is hereby dismissed with costs.

**DELIVERED, DATED AND SIGNED IN NAIROBI THIS 29<sup>TH</sup> DAY OF SEPTEMBER, 2023.**

**JANET MULWA**

**JUDGE**

