



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT SIAYA**

**CIVIL APPEAL NO. 1 OF 2022**

**(ORIGINATING FROM KISUMU HCCA NO. E001 OF 2022)**

*(Being an Appeal from the Judgment and decree in Nyando CMCC No. E235 of 2021 delivered by Hon. R.S. Kipng'eno on 5<sup>th</sup> January 2022)*

**BETTY ATIENO NDOMO.....APPELLANT/APPLICANT**

**VERSUS**

**ELVIS ONYANGO NDOMO.....1<sup>ST</sup> RESPONDENT**

**MONICA AGOLA NDOMO.....2<sup>ND</sup> RESPONDENT**

**RULING**

1. As the parties advocates are in agreement that status quo in this matter be maintained pending the *interpartes* hearing of the application for stay, I hereby make the following orders:

***(1) That the Respondents are granted leave to file and serve their Replying affidavit within the next three days of today, the weekend inclusive, and in any event, not later than close of business on 10/1/2022.***

***(2) That there is hereby granted a temporary stay of execution of judgment and decree in Nyando CMCC E235/2021 delivered on 5/1/2022 and stay of burial of the deceased Charles Ndomo Oriedo at his South Nyakach home which is scheduled to take place on 8/1/2022 pending interpartes consideration of the substantive application for stay.***

***(3) That the body of the deceased Charles Ndomo Oriedo which has been removed from Lee Funeral Home Nairobi shall now be preserved at Avenue Hospital Mortuary in Kisumu City, upon its arrival in Kisumu City and that the appellant shall be responsible for settling of all the mortuary expenses for preserving the body of the deceased Charles Ndomo Oriedo.***

***(4) That this matter shall be heard before the recess duty Judge at Kakamega on 11/1/2022.***

2. These proceedings and order are made in the presence of both parties' advocates shall be typed forthwith and remitted to Kisumu High Court who shall transmit the file to Kakamega High Court for further proceedings and consideration.

3. I so order.

**DATED, SIGNED AND DELIVERED AT SIAYA THIS 7TH DAY OF JANUARY, 2022**

**R.E. ABURILI**

**JUDGE**