



**Wanjau v Wanjiru (Suing as the legal representative of the estate of Liam Mbugua (deceased))  
(Civil Appeal E131 of 2021) [2022] KEHC 13046 (KLR) (22 September 2022) (Ruling)**

Neutral citation: [2022] KEHC 13046 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KIAMBU  
CIVIL APPEAL E131 OF 2021  
MM KASANGO, J  
SEPTEMBER 22, 2022**

**BETWEEN**

**FRANCIS MACHIRA WANJAU ..... APPELLANT**

**AND**

**ESTHER WANJIKU WANJIRU ..... RESPONDENT**

**SUING AS THE LEGAL REPRESENTATIVE OF THE ESTATE OF LIAM  
MBUGUA (DECEASED)**

*(Being an application for stay of execution of against the judgment of the Chief Magistrates  
Court at Kiambu (W. Rading, SRM) in the CMC Suit No. 91 of 2019 dated 1st July, 2021)*

**RULING**

1. Francis Machira Wanjau (Francis) filed this appeal seeking to appeal against Kiambu Chief Magistrate's Court Civil Suit No 91 of 2019. Francis has filed a notice of motion application dated October 1, 2021. He seeks the following prayers:-
  1. Spent
  2. That this honourable court be pleased to order a stay of execution of the judgment/decree issued on July 1, 2021 by honourable W Rading Senior Resident Magistrate in Kiambu CMCC No 71 of 2019 pending the hearing and determination of this application.
  3. That this honourable court be pleased to order a stay of execution of the judgment/decree issued on July 1, 2021 by Honourable W Rading Senior Resident Magistrate in Kiambu CMCC No 71 of 2019 pending the hearing and determination of this appeal.
  4. That this honourable court be pleased to order a stay of further proceedings of the declaratory suit being Kiambu CMCC No 352 of 2021 pending the hearing and determination of this application.



5. That this honourable court be pleased to order a stay of further proceedings of the declaratory suit being Kiambu CMCC No 352 of 2021 pending the hearing and determination of this appeal.
  6. That the application be heard inter parties on such date and time as this honourable court may direct.
  7. That the costs of this application abide the outcome of the appeal
2. It does not take much imagination to notice that the above prayers above have no relationship to this appeal, which is an appeal against Kiambu Chief Magistrate's Court Civil Case No 91 of 2019.
  3. This application is incompetent for failing to seek stay of execution pending the hearing of the appeal in the case in question, that is, Kiambu Chief Magistrate's Court Civil Case No 91 of 2019.
  4. Without further ado, I hereby dismiss the notice of motion dated October 1, 2021 with costs. The interim stay granted on October 7, 2021 is hereby vacated.
  5. A mention date will be given for appellant to confirm which case file he wishes to appeal against.

**RULING DATED AND DELIVERED AT KIAMBU THIS 22<sup>ND</sup> DAY OF SEPTEMBER, 2022.**

**MARY KASANGO**

**JUDGE**

Coram:

Court Assistant : Mourice

For appellant : - Ms Wairimu HB Mr Mulinge

For respondents : - Mr Njuguna

Ruling delivered virtually.

**MARY KASANGO**

**JUDGE**

