

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MIGORI

MISC. CIVIL APPEAL NO. 18 OF 2020

KENNEDY OOKO JACOB

t/a SSEBO INTEL. CO. AUCTIONEER.....APPELLANT

VERSUS

JOHN ABICH OCHANDA.....RESPONDENT

RULING

The Appellant/Respondent **John Abich Lala**, through his Advocate **Marvin Odera** has filed the Notice of Motion dated 23/2/2021 seeking an order that the delivery of judgment scheduled for today, 25/2/2021 be stayed or suspended pending hearing and determination of this application inter partes and that the applicant be granted leave to file and serve his submissions on the appeal, out of time.

On 31/8/2020 **J. Mrima** gave directions in this matter, that the applicant do file and serve submissions and the same was reserved for highlighting of submissions on 22/10/2020. Both the appellant/respondent and Mr. Odera, counsel for the applicant were present in court. The appellant/respondent had filed and served his submissions on Mr. Odera but Mr. Odera was given more time to file his submissions. The appellant had served his submissions way back on 5/10/2020. The matter was set for mention on 19/11/2020 to enable the applicant put in his submissions. On 19/11/2020, Mr. Odera did not appear and the court reserved this matter for judgment.

In his affidavit in support of this notice of motion, counsel contends that he was not aware of the date for judgment but having known that the matter was for mention on 19/11/2020 to confirm compliance of filing submissions, he should have made a follow up.

Even upto date, despite the time counsel was allowed to file submissions, the applicant has not attached any draft submissions that the court would have considered. I find no good reason given to warrant deferring or suspending the reading of the court's judgment to another date. The Notice of Motion is hereby dismissed.

Dated and Signed at Migori this 25th day of February, 2021

R. WENDOH

JUDGE