



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI
CIVIL DIVISION

MISC. CIVIL APPLICATION NO. E150 OF 2021

TWIGA PROPERTIES LTD.....APPLICANT

VERSUS

JOYCE MURAGI NJAGI T/A CROSSWORLD INSTITUTE OF PROFESSIONAL STUDIES...1ST RESPONDENT

GEORGE N. MUIRURI T/A LEAKEY AUCTIONEERS.....2ND RESPONDENT

RULING

1. This ruling is in respect of the notice of motion dated 25th March 2021 which seeks the following orders:

i) Spent

ii) THAT the honourable court be pleased to grant an order of stay of execution of the Judgment and decree of the honourable court issued on 7th May 2018.

iii) THAT the Honourable court be pleased to grant leave to the applicant to file an Appeal out of time against the Judgment and decree of Hon. E.K Usui, Senior Principal Magistrate issued on 7th May 2018 in Milimani CMCC 9038 of 2007.

iv) THAT the costs of this application be provided for.

2. The application is supported by the grounds on its face plus the supporting affidavit of Mr. Ramila Chouhan the applicant's manager.

3. The 1st respondent filed a replying affidavit sworn on 10th May 2021.

4. The application was argued orally by counsel for both parties.

5. I have carefully considered the application, grounds, affidavits and annexures, alongside the submissions. The prayers sought in this application are in respect of a judgment and decree issued by Hon. E. K Usui Senior Principal Magistrate on 7th May 2018 in Milimani CMCC No. 0038 of 2007.

6. A reading of the supporting affidavit and the grounds reveals that the application is in respect of a Ruling delivered on 21st February 2020 by Hon. L. Gichera Chief Magistrate. Mr. Nderitu in his rejoinder to the submissions by M/s Ndinda confirmed that the application is in respect of the Ruling of 21st February 2020.

7. That being the case I shall not even get into the merits of the application. The prayers sought and the supporting affidavit and grounds are not in support of each other. I find the application to be incompetent and strike it out with costs.

DELIVERED ONLINE, SIGNED AND DATED THIS 30TH DAY OF SEPTEMBER, 2021 IN OPEN COURT AT MILIMANI NAIROBI.

H. I. ONG'UDI

JUDGE