

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISII

CIVIL APPEAL NO. 185 OF 2015

SWAN CARRIERS LIMITEDAPPELLANT

VERSUS

BONIFACE MOSETI OYARO..... RESPONDENT

(Being an appeal from the judgment of Hon. J.M. Njoroge (SPM) delivered on 7th December, 2015 in Kisii Civil Suit No. 214 of 2013)

RULING

I have considered the application dated the 22/5/2019. The applicant/Appellant seeks a stay of execution of the Judgment of this court delivered on the 3/5/2019 pending the hearing and determination of the intended appeal. The application is supported by the affidavit of Godi Gathu and the grounds stated on the face of the application. The application was not opposed. Counsels made oral submissions which I have considered together with the affidavits filed and the law on stay of execution. The application was filed within reasonable time on the 22/5/2019 after delivery of the judgment on the 3/5/2019. The applicant has attached her grounds of appeal challenging the court's decision. They raise a substantial issue. It was not disputed that the Respondent is man of straw. The applicant is also willing to deposit the decretal/judgment sum in a joint interest earning account.

I find merit in the application. A stay of execution to issue of the judgment delivered on the 3/5/2019 pending the hearing and determination of the intended appeal. The applicant shall deposit the judgment sum of Kshs.480000/= in a joint interest earning account in the names of the advocates for the parties within 45 days from today. In default the stay order shall be vacated and the Respondent shall be at liberty to proceed with execution. Costs be in the cause.

Dated, Signed and delivered at Kisii this 20th day of June 2019.

R.E. OUGO

JUDGE

In the presenc of:

Miss Kebungi h/b Ms Mucheru For the Applicant

Mr. Nyakundi h/b Mr. Ombati For the Respondent

Ivayo Court Clerk