

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAKURU

CIVIL APPEAL NO. 214 OF 2013

EDWIN ATIENO OULO APPELLANT

-VERSUS-

TOM MBOYA RESPONDENT

**(Being an Appeal from Judgment/Decree of the Ag. Senior Principal Magistrate Hon. J. Mwaniki Delivered on 16th October 2013,
in NAKURU CMCC No. 1461 of 2010)**

RULING

The Applicant, Tom Mboya in his application dated 13th July 2016 seeks the decretal sum of Kshs.240,000/= deposited in a joint interest earning account to be released to him as the appeal upon which the sum was deposited was dismissed on the 7th July 2015.

An attempt to have the appeal reinstated for hearing by the Respondent was dismissed on the 13th June 2016.

The application is not opposed the respondent having failed to file a Replying Affidavit or grounds of opposition though served.

The sum of Kshs.240,000/= was deposited in the joint account of E.M. Orina & Co. Advocates and Gordon Ogola, Kipkoech & Co. Advocates on the 21st May 2014 at the Co-operative Bank, Nakuru Branch – A/C No. 01148506830000.

There being no opposition to the release of the deposit, and the appeal having been dismissed, I find no reason to why the deposit should remain held by the Bank. I allow the application dated 13th July 2016.

The sum of Kshs.240,000/= plus accrued interest shall be released to the applicant's advocates Gordon Ogola, Kipkoech & Co. Advocates for onward transmission to the applicant.

No orders as to costs.

Dated, Signed and Delivered this 21st Day of June 2018

J.N. MULWA

JUDGE