



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT SIAYA**

**KSM HCC. NO. 83 OF 2018**

**(FORMERLY ELC NO. 269 OF 2017)**

**(CORAM: R. E. ABURILI - J.)**

**ERI LIMITED.....PLAINTIFF/APPLICANT**

**VERSUS**

**EQUITORIAL COMMERCIAL BANK (FORMERLY SOUTHERN CREDIT**

**BANKING CORPORATION LIMITED.....1<sup>ST</sup> RESPONDENT**

**ZAINUL GALIB VELJI.....2<sup>ND</sup> RESPONDENT**

**RULING**

The Applicant by its application dated 27/8/2018 seeks for orders among others, that they be heard during the recess; that the application be certified as urgent and that there be stay of execution pending appeal. On the latter prayer, they further seek for temporary stay orders pending interpartes hearing of the application for stay pending appeal.

The application is brought *ex parte* in the first instance.

I have considered the application as supported by the affidavit and annexures. I have given equal consideration to Mr. Achura's submissions.

I am satisfied that the matter is urgent as there is threat of execution of recovery of costs. I certify the matter as urgent for consideration during the recess.

On whether this court should grant temporary stay of Execution pending interpartes hearing of the application for stay, I shall, without delving into the merits of the application order that there shall be temporary stay of Execution of recovery of cost on condition that the applicant deposits the taxed costs into a joint interest earning account to be operated by both advocates for the applicant and the 2<sup>nd</sup> Respondent with a reputable commercial bank within the next 15 days of date hereof until further orders of the court.

The applicant to serve the 2<sup>nd</sup> Respondent for interpartes hearing of the application for stay pending appeal on 11/9/2018 before Hon. Justice Fred Ochieng, Presiding Judge, Kisumu High Court.

Orders accordingly.

*Dated, Signed and Delivered at SIAYA this 28<sup>th</sup> day of August 2018.*

**R.E. ABURILI**

**JUDGE**