



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAIROBI**

**MISC. APPLICATION NO. 108 OF 2018**

**VAROMATECH ENTERPRISES.....APPLICANT**

**VERSUS**

**HARON NGANGA NGUNJIRI.....RESPONDENT.**

**RULING**

This is an application by way of Notice of Motion for orders that leave be granted to extend the time to file an appeal against the judgment of the lower court delivered on 27<sup>th</sup> December, 2017. There is another order sought for stay of execution of the said judgment. Reasons have been set out on the face of the application.

The said application is brought under Order 42 Rule 6 (1) and 6 (6), Order 21 Rule 22 (1) and Order 50 Rule 6 of the Civil Procedure Rules. Sections 1A, 1B and 3A of the Civil Procedure Act have also been cited. There is a supporting affidavit sworn by the advocate for the applicant to which grounds of opposition have been filed on behalf of the respondent.

At some stage the parties attempted a settlement to this application but failed.

I have considered the material presented alongside the authorities cited. The application was filed timeously, and in the event the decretal sum is paid to the respondent there is fear that substantial loss may be visited upon the applicant and the appeal rendered nugatory.

The applicant is prepared to provide security for due performance of any decree that may be issued. Considering the materials presented, I am inclined to allow the application and order that leave to file the appeal is hereby granted. There shall be a stay of execution provided that the applicant deposits the entire decretal sum in an interest earning account in the joint names of the advocates on record. The appeal shall be filed and the deposit of the said sum shall be effected within 30 days from the date of this ruling. Costs shall be on appeal.

***Dated, signed and delivered at Nairobi this 20<sup>th</sup> Day of December, 2018.***

**A. MBOGHOLI MSAGHA**

**JUDGE**