

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CIVIL APPEAL NO. 440 AND 441 OF 2016

CONSOLIDATED

VEGPRO KENYA LIMITED.....APPELLANT

VERSUS

AGNES KITHUA KASIVU.....RESPONDENT

CATHERINE MWANIA.....RESPONDENT

RULING

These applications arise from the same cause of action. The appellant is the same but the respondents are different. Both seek an order for stay of execution arising from the decision of the lower court.

The respondents were injured in an accident and following a trial in the lower court, both were awarded Kshs. 200,000/= general damages and Kshs. 5,000/= respectively. The appellant was aggrieved by the said judgment and has filed a Memorandum of Appeal.

The appellant has filed an application for stay of execution pending the determination of the appeal. The application is opposed and both counsel have filed written submissions.

Going by the provisions of Order 42 Rule 6 of the Civil Procedure Rules, I have no doubt that the applications were filed timeously and the Memorandum of Appeal discloses an arguable appeal. The appellant is also ready to comply with any orders of the court.

The appeal is against quantum of damages and not liability. I am persuaded that there should be stay of execution but on the following terms; the appellant shall pay to each of the two appellants a sum of Kshs. 100,000/= out of the decretal sum. The balance shall be deposited in an interest earning account in the names of both counsel on record within 30 days from the date of this ruling. The costs shall be on appeal.

A.MBOGHOLI MSAGHA

JUDGE

Dated, signed and delivered at Nairobi this 23rd Day of February, 2017

JUDGE