



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NYERI
CIVIL APPEAL CASE NO. 12 OF 2010

ISAAC KANGANGI

ISAYA KABERIA M'THINYAI.....APPELLANTS

VERSUS

RAHAB MUTHONI MUNGAI substituted by

JOHN NG'ANG'A MUNYUA.....RESPONDENT/APPLICANT

RULING

1. The Applicant filed a Notice of Motion under the provisions of Section 3 3A, 1A and 1B of the Civil Procedure Act and Order 51(1) of the Civil Procedure Rules and all other Enabling Provisions of the Law.
2. The Applicant prayed for the following Orders;
 - (i) That this Honourable Court be pleased to make an order that the sum of Kshs.1,049,574/- deposited in court by the appellant vide receipt No.376388 be released to Gathiga Mwangi & Co. Advocates.
 - (ii) The costs of this application be awarded to the applicant.
3. The Applicant relied on the grounds on the face of the application and on the Supporting Affidavit made by JOHN NG'ANG'A MUNYUA dated the 14TH February, 2017.
4. The appellant though duly served was absent at the hearing hereof; hereunder is a summary of the applicants submissions;
 - (i) The monies are from a fatal accident injuries claim; the appellant was ordered to deposit the sum of Kshs.1,049,574/- pending the hearing and determination of the instant appeal;
 - (ii) The appeal was heard and determined and it was dismissed on the 10/06/2016; that there is no other or further application pending; that a Certificate of Taxation has been issued;
 - (iii) The applicant prayed that the monies deposited in court be released to his advocates;
5. This court has noted that the appellants' advocates were duly served with a Mention Notice and were

absent at the hearing hereof; the Affidavit of Service is dated the 19th September 2016 and was duly filed in court on the 20th September, 2016.

6. After careful perusal of the court record this court is satisfied that the matter was heard to its logical conclusion and determined with the appeal being dismissed; the Certificate of Taxation is dated the 20/01/2017; and that there is no other or further application pending;

7. In the aforesaid premises the applicant must be allowed to enjoy the fruits of the outcome of his litigation;

DETERMINATION

8. The application for the release of the funds deposited in court is found to be merited and is hereby allowed.

9. The Applicant shall have costs of this application.

Orders accordingly.

Dated, Signed and Delivered at Nyeri this 30th day of March, 2017.

HON.A. MSHILA

JUDGE