



**REPUBLIC OF KENYA**

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

**MISCELLANEOUS CIVIL APPLICATION NO.17 OF 2016**

**FATUMA NURU MUKORO ...APPLICANT**

**VERSUS**

**AMINA ABDI LAMA .....RESPONDENT**

**RULING**

The applicant's application is brought by way of notice of motion dated 7<sup>th</sup> June 2016 pursuant to sections 30,39 and 79 and Order 22 Rule 22 and Order 42 rule 6 of the Civil Procedure Rules 2010 and any other enabling provisions of the law. The applicant is seeking orders as follows:-

1. That there be a stay of execution of the judgment and decree and all the consequential orders in Kadhi's case number 90 of 2015 pending inter-parte hearing and determination of the intended appeal.
2. That the applicant be granted leave to file an appeal out of time.
3. That the draft memorandum of appeal be deemed as properly filed and served.
4. Costs of this application be borne by the Respondent.

I have perused the affidavits by both parties and the submissions by their respective counsel. The application in my view is merited. Since the appeal will be canvassed before me, it would be prudent if I do not say much at this stage.

The 1<sup>st</sup> 2<sup>nd</sup> and 3<sup>rd</sup> prayers of the application are allowed. For this application each party will meet own costs.

**DATED at MARSABIT this 19<sup>th</sup> Day of April 2017**

**KIARIE WAWERU KIARIE**

**JUDGE.**