



**REPUBLIC OF KENYA**

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

**CIVIL APPEAL NO. 140 OF 2013**

**INVESCO ASSURANCE COMPANY LTD..... APPELLANT/APPLICANT**

**VERSUS**

**ALICE GESARE MOKUA ..... RESPONDENT**

*(Being an appeal from the Ruling of the Senior Resident Magistrate's Court at Kajiado of Civil Case No. 268A of 2012 dated 19<sup>th</sup> June 2013)*

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*(Before B. Thurania Jaden J)*

**RULING**

1. The application dated 3/7/2013 seeks orders that pending the hearing and determination of this application *inter-partes*, this Honourable Court be pleased to order interim stay of execution of the lower court's ruling entered against the Defendant/Appellant on the 19<sup>th</sup> day of June 2013 in **Kajiado SRMC No. 268A of 2012**.
2. According to the affidavit in support, the Applicant's suit in the lower court was struck out thereby exposing the Applicant to execution proceedings.
3. The application was opposed. According to the replying affidavit, the Appellant has not demonstrated that he would suffer substantial loss and no security has been offered for the due performance of the decree.
4. During the hearing of the application, the Applicants submitted that they were ready to deposit security. The Respondent's position was that if the application is allowed, the decretal sum should be deposited in court.
5. This court is persuaded to allow the stay but on condition that the decretal sum be paid in court or in an interest earning account of both parties within 30 days from date hereof. In default execution to issue.

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**B. THURANIRA JADEN**

**JUDGE**

Dated and delivered at Machakos this 19<sup>th</sup> day of **February** 2015.

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**B. THURANIRA JADEN**

**JUDGE**