



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAIROBI**

**MISCELLANEOUS CIVIL APPLICATION NO. 459 OF 2015**

**PIONEER PLUMBERS LIMITED .....APPLICANT**

**VERSUS**

**JACOB NYONGESA MUKHULA .....DEFENDANT**

**RULING**

The appellant's application dated 26<sup>th</sup> October 2015. The same is supported by an affidavit. The application seeks for stay of execution of decree in the lower court pending hearing and determination of this appeal. The applicant has demonstrated that they complied with the consent for disposal of the decretal sum. The application is not opposed though served upon the respondent. The application was filed timeously and the security is secured. I need not go into the issue of substantial loss in view of the consent securing the balance of decretal sum after part of it was paid to the respondent.

Accordingly, I grant the appellant stay of execution of decree in Milimani CM CC 2273/2012 pending hearing and determination of the intended appeal. On the application for leave to appeal out of time, I find it meritorious. It was filed timeously and no prejudice will be occasioned to the respondent if the applicant is granted leave to file an appeal out of time. Accordingly, I order that the applicant do file and serve a Memorandum of Appeal upon the respondent within 21 days from the date hereof. Costs shall be in the appeal as intended. Orders accordingly.

**R.E. ABURILI**

**JUDGE**

**9/12/2015**