



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT MOMBASA**  
**CIVIL APPEAL NO. 21 OF 2013**

**FATUMA AHMED BREK.....APPELLANT**

**VERSUS**

**FEISAL AHMED KARAMA.....RESPONDENT**

**RULING**

Before court is the Notice of Motion dated 4<sup>th</sup> October, 2013 seeking orders for a stay of execution of the orders granted by the Hon. Kadhi on 27<sup>th</sup> June, 2013 pending the hearing and determination of this appeal. This application/appeal arises from the decision of the Hon. Kadhi in Kadhi's Civil Case No. 123 of 2009. The application which was opposed was disposed of by way of written submissions.

I have carefully considered the submissions of both parties in respect of this matter. I note that the matter in the Kadhi's court was basically a succession cause relating to the estate of one **AHMED KARAMA ABDALLA**. The applicant is the wife to the deceased while the respondent is his son. The appellant now faces eviction from the family home. I have taken into account the principles for issue of injunctions as set out in the case of **GIELLA –VS – CASSMAN BROWN 1973 E.A. 358**. It is my considered view that the appellant has an arguable appeal that she stands to suffer irreparable harm if the orders sought are not granted. I find the present application to be meritorious and I therefore grant a stay of execution pending the hearing and determination of the appeal. Costs in the cause.

**Dated and delivered in Mombasa this 31<sup>st</sup> day of March, 2014.**

**M. ODERO**

**JUDGE**

In the presence of:

Mr. Nangoye h/b Mr. Khatib

Mr. Okemwa h/b Mr. Ali