

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT EMBU

MISCELLANEOUS CIVIL APPLICATION 38 OF 2011

HARRISON W.M. MAGUH..... APPELLANT/APPLICANT

VERSUS

RUNG'ETO F.C.S. LTD RESPONDENT

R U L I N G

This is the application dated 8/7/2011 filed under Order 42 rule 6 and Order 51 rule 1 Civil Procedure Rules for Orders of temporary stay pending the hearing of High Court Civil application No.38 of 2011. The grounds are on the face of the application supported by an affidavit.

The same has been opposed by the Respondent herein. A perusal of the record herein confirms that no Appeal has been filed herein. There is a pending application for leave to file appeal out of time dated 5/5/2011. I do not therefore see any basis upon which the Applicant is invoking the provisions of Order 42 rule 6 Civil Procedure Rules. This application was filed prematurely and I will not allow it. The Applicant should make haste and have his application for leave heard at the earliest opportunity.

Application dated 8/7/2011 is dismissed with costs.

DATED AND DELIVERED AT EMBU THIS 26TH DAY OF SEPTEMBER 2012.

**H.I. ONG'UDI
J U D G E**

In the presence of;

Applicant – present

Njue – C/c