



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)
Civil Appeal 50 of 2009
PETER KINYANJUI..... APPELLANT
VERSUS
VIRGINIA WAITHIRA MWANGI.....RESPONDENT

R U L I N G

1. Peter Kinyanjui (hereinafter referred to as the applicant), is dissatisfied with the judgment of the Resident Magistrate Thika, delivered in Thika Civil Case No. 68 of 1993. The applicant has lodged an appeal in this court. He now seeks orders of stay of execution pending the hearing of his appeal. The applicant maintains that his appeal which has overwhelming chances of success would be rendered useless unless the orders sought are granted.
2. Virginia Waithira Mwangi who is the respondent to the appeal, objects to this application contending that it has been brought in bad faith and that the applicant has not demonstrated the prejudice if any that he would suffer if the orders are not issued.
3. I have carefully considered this application and the affidavit in support and in reply. I think it is fair and just that the applicant be given an opportunity to ventilate his appeal. On the other hand, the interests of the respondent can easily be secured through an order for security. Accordingly, I grant an order for stay of execution pending appeal on the following conditions: -
 - (i) The applicant shall deposit into court a further sum of Kshs.10,000/= (in addition to the amount already deposited), within 7 days from today, and the total sum of Kshs.20,000/= to remain in this court pending the hearing of the appeal.
 - (ii) The applicant shall file and serve a record of appeal within 90 days from the date hereof and take all necessary action to facilitate the speedy disposal of the appeal.
 - (iii) If the appeal is not disposed off within 12 months from the date hereof, the order for stay of execution shall lapse unless otherwise extended by the court.

Those shall be the orders of this court.

Dated and delivered this 21st day of April, 2009

H. M. OKWENGU

JUDGE

In the absence of: -

Advocate for the appellant

Advocate for the respondent