

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI
(MILIMANI LAW COURTS)
CIVIL CASE 868 OF 1988

WANJOHI KABIA.....PLAINTIFF

VERSUS

JOSEPH WAHOME T/A SIMBA

BUILDING CONSTRUCTION.....1ST DEFENDANT

ELENA WANGECHI WAHOME.....2ND DEFENDANT

R U L I N G

This is an application by way of Notice of Motion by the Defendant seeking orders that the security amounting to Kshs. 200,000/= paid into court vide order dated 20th November 2006 be returned to the Applicant and/or her advocate on record.

In support of the application Anthony Mwangi Nganga has sworn an affidavit in which he avers; that pursuant to the application dated 14th December 2006, and amended on 24th September 2007, the Applicant herein was ordered by this Honourable court to deposit Sh. 200,000/= as security for stay pending the hearing and determination of that application; that the application was heard on diverse dates and the ruling thereof delivered on 16th May 2008 in her favour and in particular setting aside the order of execution against her; that she now applies to this Honourable Court to order that the amount paid as security and deposited with this court be released to her and/or her advocate on record and that it is only mete and just that orderS sought be granted as no appeal has been preferred against the said ruling.

Having considered the application the affidavit and submissions by Counsel for the Applicant I am satisfied that the application is meritorious. Accordingly the same is allowed in terms of prayer 1 of the Notice of Motion dated 3rd September 2008.

The Applicant is also entitled to costs of this application and it is so ordered.

Dated and delivered at Nairobi this 15th day of May 2009.

J. L. A. OSIEMO

JUDGE