

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT EMBU

Civil Appeal 62 of 2001

JAMLICK MUTHIKE KARIBUI.....APPELLANT

VERSUS

EUNICE WAMBUI NGONDI.....1ST RESPONDENT

JACENTA WANJIKU GIKUNJU.....2ND RESPONDENT

JUDGMENT

The appeal is filed from the Judgment of *Kerugoya Misc. Application No. 42 of 2000* the Judgment was made on 25/3/2001. The application was brought under Order 21 rule 22 Civil Procedure Code seeking stay of the award pending the hearing of an appeal in *Nyeri HCC No. 83/99*. The Trial Magistrate found that a stay application. The appeal mention was filed in civil appeal No. 83 of 1999. There was not filed a Judges Certificate that there exists on an issue of law involved to warrant an appeal. The Trial Magistrate did dismiss the application and in my view correctly so. There is a supplementary record filed with leave. There was opposition to the application. There was inordinate delay and there execution had already taken place. The provisions of order 21 rule 22 applies where a decree is sent for execution in another court. The court to which the decree is sent shall, upon sufficient case shown stay of the execution of such decree for a reasonable time to enable the Judgment debtor to apply to the court by which the decree was perused or to a court having appellate jurisdiction for an order to stay execution. In this case no sufficient cause was shown for a stay. And there is no indication that such an application was to be made. The appeal has no merit and the same is hereby dismissed with costs to the Respondents.

Dated this 9th May, 2008.

J. N. KHAMINWA

JUDGE

9/5/2008

Khaminwa – Judge

Njue – Clerk

Mr. Chomba for Respondent

Read in open court.

J. N. KHAMINWA

JUDGE