

**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)
Civil Appeal 468 of 2007**

KENPOLY MANUFACTURERS LIMITED APPELLANT

V E R S U S

CRISPINUS I. IMBELESIA.....1ST RESPONDEBT

KENPOLY 'M' LIMITED2ND RESPONDENT

R U L I N G

The Appellant herein is not the judgement-debtor in the lower court. It was an objector to attachment in execution of decree whose objection was dismissed by the lower court. The appeal is against that dismissal.

The appeal was lodged timeously and there was no unreasonable delay in bringing this application. Although the Respondent claims that the Appellant, KENPOLY MANUFACTURERS LIMITED, and the judgment-debtor, KENPOLY 'M' LIMITED, are one and the same person, they are different corporations on the face of the record. We are all aware of the legal ramifications of incorporation.

I am satisfied that the Appellant stands to suffer substantial loss unless the order of stay it has sought by notice of motion dated 4th June, 2007 is not granted pending disposal of its appeal. It shall thereby have been forced to meet the decree of the lower court when it is not the judgment-debtor. Should its appeal succeed it may have considerable difficulty in recovering the decretal sum as the 1st Respondent appears to be a man of meager means. On the other hand, should the appeal be ultimately dismissed, the decretal sum will be readily available to the 1st Respondent as the same was deposited in court on 8th June, 2007 as security upon the order of this court.

Having considered all matters placed before the court, I will allow the application by notice of motion dated 4th June, 2007. There shall be stay of execution of decree of the lower court pending disposal of the appeal herein. The decretal sum deposited in court on 8th June, 2007 shall remain so deposited pending disposal of the appeal or the further order of the court. Costs of the application shall be in the cause. Those shall be the orders of the court.

DATED AND SIGNED AT NAIROBI THIS 20TH DAY OF JUNE 2008.

H.P.G. WAWERU

JUDGE

DELIVERED THIS 20TH DAY OF JUNE 2008