

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)

Civil Appeal 340 of 2007

PATRICK KIPLAGAT KIPTANUIAPPELLANT/APPLICANT

Versus

NATIONAL BANK OF KENYA.....RESPONDENT

R U L I N G

From what has been brought to my attention during the hearing of this Notice of Motion dated 30th May 2003, the same be and is hereby dismissed for the following reasons:

This is a money decree where the decree holder is a bank of National repute. In the circumstances of the case therefore, I do not see how a stay will be good and fair to the Applicant if in the end he loses the appeal in view of the fact that the interest of 7% ordered will keep on increasing the total sum to be paid. He already says the total sum to be paid to-day is substantial and will make the Applicant suffer irreparable loss even though the Respondent is a person who will have no difficulty refunding the money if the appeal is a success. That is irreparable loss already, to the Applicant to-day according to his application. How about if he will be made to pay that to-day's total plus the addition which will result from to-day to a date after determination of the appeal in case the appeal is dismissed? The Appellant/Applicant does not want to say anything – and I do not see any other order better for the Applicant than the order I have made above. The Applicant to pay costs of this application to the Respondent.

Dated and delivered at Nairobi this 21st day of June 2007.

J.M. KHAMONI

JUDGE