



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

**Civil Case 2466 of 1998**

**JOHN NDUGIRE .....PLAINTIFF**

**VERSUS**

**SAMUEL WAINAINA t/a F. G.HARRIS & CO. ....DEFENDANT**

**RULING**

In view of submissions made by counsel for both parties and in particular counsel for the applicant who is in fact seeking sometime to dispose of the motor vehicle he was allowed to own but pay *Kshs.1.2 million* for it and which he is trying to dispose off in order to raise this money, it is only fair and in the interest of justice that he be given sometime to organize himself.

I take note that since the Deputy Registrar's order the applicant has so far raised the sum of *Kshs.105,000/=* and, given this spirit, I do not think the applicant is simply buying time by making the current application.

Counsel for the respondent opposes the application because time has lapsed hence the applicant has no right of appeal. But this is why the applicant is before this Court to seek extension of time to lodge such appeal out of time and it is within the discretion this Court to either grant or refuse to grant the same.

That such application has been filed by way of Chamber Summons instead of Notice of Motion is not to my mind of a fatal irregularity and this application cannot be refused merely because of that reason.

I allow this application and grant the applicant Stay of Execution for 60 (sixty) days within which period the applicant should have organized himself and lodged the intended appeal. Costs of this application should however be paid by the applicant to the respondent either agreed or taxed.

**Delivered, signed and dated** at Nairobi this 6<sup>th</sup> day of November 2007.

**D. K. S. AGANYANYA**

**JUDGE**