



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA

AT EMBU

CIVIL APPEAL 25 OF 2005

MURUGI KANYEKI NCOBI.....APPELLANT

VERSUS

MICHAEL MWAI KANYEKI.....RESPONDENT

RULING

Application dated 27/3/2007 seeks orders that an officer of court be authorized to execute all relevant documents to facilitate distribution of estate on the ground that the Respondent has refused to sign the same. Application is supported by affidavit of Appellant. The record shows that the Respondent filed Notice of appeal on 10/4/2007. On 24/5/2007 the Respondent filed a replying affidavit saying that he had filed an appeal and the Application should be dismissed. The record shows that there is no order or application for stay of execution.

I have considered the application and it is my finding that in case of land execution of a decree or order of the court the appellant is not likely to be prejudiced. An appeal does not act as stay of execution -see order 41 rule 4 CPC. I therefore allow application and grant orders as prayed and numbered 1 & 2 in Chamber Summons.

No order as to costs.

Dated this 14th December, 2007.

J. N. KHAMINWA

JUDGE

14/12/2007

Khaminwa – Judge

Njue - Clerk

M/s Thungu for Applicant

Respondent present in person

Read in open court.

J. N. KHAMINWA

JUDGE