

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MOMBASA

CIVIL APPEAL 12 OF 2005

NURU BUKHEIT & 4 OTHERS.....APPELLANT

VERSUS

BUKHEIT MASOUDRESPONDENT

RULING

The court has considered the submissions of Counsel. The Applicants wish to appeal against the order of the Kadhi Court. The Kadhi proceeded to order sale of a capital asset before a grant of letters of Administration or probate is issued in the estate. This is a matter to be decided on appeal.

While the appeal is pending the steps should not be taken which would render appeal nugatory for that reason, I order that the Kadhi order be stayed pending the hearing of the appeal. The Applicants shall give security in the sum of shs.50,000/- to secure any order that may ultimately be made against them. Security shall be furnished within the next 21 days from today. Prayer 2 in Application seeks extension of time for service of the Memorandum. The same was filed within time.

There being no objection, I extend the time for service. The service now affected shall be deemed to have been served in time.

Delivered and dated at Mombasa this 5th day of October 2005,

J. KHAMINWA

J U D G E