



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAKURU**

**CIVIL APPEAL NO. 184 OF 2003**

**STEPHEN WANDERI KAMAU.....1ST APPELLANT**

**SOFITRA LIMITED.....2ND APPELLANT**

**VERSUS**

**GLADYS WANJIKU KUNGU.....RESPONDENT**

**RULING**

By an application brought by way of a Notice of Motion under Order XLI rule 4 and Order L rule 12 of the Civil Procedure Rules and Section 3A of the Civil Procedure Act, the applicants prayed for stay of execution of the judgment pronounced on 26th September, 2003 in Nakuru C.M.C.C. No. 1830 of 2002.

They also prayed that the time allowed for filing of the appeal be extended.

In the affidavit sworn in support of the said application, it was not stated that the applicants would suffer substantial loss if the application was not granted. Substantial loss has to be proved in an application for stay of execution.

The purported appeal was filed on 19th November, 2003. No reason was stated as to why it was filed out of time contrary to the provisions of Section 79G of the Civil Procedure Act. There was also unreasonable delay in making the said application and the delay was not explained at all.

I am in agreement with Mr. Oraro, the learned counsel for the respondent that for the aforesaid reasons the said application is for dismissal and I hereby dismiss the same with costs to the respondent.

**DATED, SIGNED & DELIVERED at Nakuru this .....day of .....2004.**

**DANIEL MUSINGA**

**AG. JUDGE**