

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MOMBASA
Civil Suit 390 of 1995

JAMES GORI PLAINTIFF

V E R S U S

KENYA PORTS AUTHORITY DEFENDANT

R U L I N G

In this case the defendant applied for stay of execution of decree on the grounds that he had filed an appeal and other grounds advanced their. The court granted the stay pending an appeal on certain conditions namely that the defendant was to deposit the amount of decree in an interest earning joint account to be held by both advocates. The deposit was to be within 30 days from the date of the ruling (17.11.2003). The plaintiff has now come to court seeking order to discharge that stay on the ground that the plaintiff's advocate has not been made a joint holder of such account.

Upon reading the defendants affidavit there is the impression give that the defendant has deliberately misinterpreted the order of this court. The defendant was to deposit the money by a certain date. He did not do so. He did not apply for extension of time. He therefore creates excuses for this failure. The defendant wants his legal assistant to be added as a party to operate the account. This was not ordered by court. The defendant tries to exonerate himself by saying that the advocate for the plaintiff was incorporative. I have read the application and the affidavits in support. The advocate for plaintiff is on his right to object to the proposed operation of the account. I have come to the conclusion that the defendant has deliberately chosen to defy court order and I hereby allow the application and grant order as prayed for with costs

J. KHAMINWA

JUDGE

25.6.04

Mr. Odoch.

Mrs. Olwende

Ruling read in their presence.

J. KHAMINWA

JUDGE

Mr. Adoch – I apply for certified copies of proceedings and ruling.

Court – Let the same be supplied.

I apply for stay pending appeal.

Court – Advocate to file a formal application with the next 7 days. Stay is granted for that ground.

J.KHAMINWA

JUDGE