

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KISII
CIVIL APPEAL NO.163 OF 2001

JAMES OBANDE OWUOR APPELLANT
VERSUS

1. ELKANA OROKO MWANGI)

2. OKKECH ODUOR)

3. PATRICIA OBUYA)
RESPONDENTS

4. ISAIAH JUMA)

RULING

Applicant's application in Prayer 4 is for a stay of execution against all costs taxed herein pending the hearing and determination of the appellants pending appeal.

The appellants appeal in this court was dismissed with costs. Costs were taxed at shs.69, 025/- on 22nd September 2003. The appellant has now appealed in the Court of Appeal and pray for stay of execution until the appeal is heard.

Application was opposed. I have considered the submissions and the affidavits and grounds of opposition. The applicant has submitted that he has filed an appeal in the Court of Appeal. This court cannot at this stage determine whether the appeal is frivolous or not. If execution takes place his appeal will be rendered nugatory.

The application is therefore allowed. There be a stay of execution until the appeal is heard on condition that he deposit the taxed costs in court within 15 days from today's date. If the money is not deposited application will stand dismissed.

KABURU BAUNI

JUDGE

4/6/04.

Signed, dated and delivered on 4th June 2004 in presence of Mrs. Asati for Respondent.

N/A for Applicant.

KABURU BAUNI

JUDGE

4/6/04