

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

APPELLATE SIDE

CIVIL APPEAL NO. 161 OF 2002

(From the original Civil Suit EJ.559 of 1996)

GEOFFREY GITAU GATHANUA & ANR.APPELLANT

VERSUS

KIMBLA KENYA LIMITEDRESPONDENT

RULING

When indications in a litigation like the present one point at the likelihood of the issuance of a notice to show cause why a litigant should not be sent to civil jail for failure to pay a civil debt, then I do not know how to call loss of his/their liberty through this kind of action if not to constitute it substantial loss.

In consideration of this then it goes without saying that this would be a proper case where an order of stay of execution pending the hearing and determination of appeal should be issued and I do herein issue the order sought in the application dated 15th April 2002 on condition that the applicant deposits into court logbooks of motor vehicles certified by the Registrar of motor vehicles to belong to him within 15 days from today failing which this order to lapse and execution to proceed.

Costs of this application assessed at Kshs.4,000/= to be paid to the respondent.

Delivered this 22nd day of July, 2002.

**D.K.S. AGANYANYA
JUDGE**