

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CIVIL CASE NO.626 OF 1995

ELIAS MBABU M'INOTI PLAINTIFF

VERSUS

ATTORNEY GENERAL DEFENDANT

R U L I N G

This application by way of notice of motion seeks orders that this Honourable Court do grant stay of execution of the Judgment delivered on 27th October, 1999 pending the hearing and final determination of an intended appeal, supported by sworn affidavit of the applicant. The application is opposed. The respondent filed a suit against the applicant and service was effected. No defence was filed. A hearing date was fixed and the applicant was served with the hearing notice, which he acknowledged by stamping at the back, but did not appear during the hearing. The hearing proceeded ex-parte and Judgment was delivered. The applicant now applies for stay of that Judgment pending the hearing and determination of the intended appeal.

According to evidence on record the respondent was assaulted by the police officers who were drinking next to him in a bar after he had knocked their beer down while he was passing. The said police officers are said to have been drinking in a bar. It is not clear from the record whether they were on duty or on their private mission. They never gave evidence nor were their identifications revealed. But because the applicant had sustained serious injuries which resulted in total blindness I grants stay of execution on condition that the applicants released Shs.300,000/= to the respondent for his immediate use for medical expense.

Order accordingly.

Dated and Delivered at Nairobi this 23rd day of February, 2000

J.L.A. OSIEMO

JUDGE