



REPUBLIC OF KENYA



**Dofa & another v Dofa & another (Civil Appeal E001 of 2025)  
[2025] KEHC 3050 (KLR) (13 March 2025) (Ruling)**

Neutral citation: [2025] KEHC 3050 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MARSABIT  
CIVIL APPEAL E001 OF 2025**

**FR OLEL, J  
MARCH 13, 2025**

**BETWEEN**

**HUSSEIN ABDI DOFA ..... 1<sup>ST</sup> APPELLANT**

**SADICK MUSTAFA DOFA ..... 2<sup>ND</sup> APPELLANT**

**AND**

**DAHABO ABDI DOFA ..... 1<sup>ST</sup> RESPONDENT**

**MOHAMMED WOCHÉ ..... 2<sup>ND</sup> RESPONDENT**

**RULING**

1. The Respondents/ Applicants filed a Notice of Motion application dated 14<sup>th</sup> January 2025 seeking the following orders;
  - a. Spent
  - b. Spent
  - c. Spent
  - d. That this honorable court be pleased to issue a stay of proceedings in this Appeal herein pending hearing and final determination of the intended appeal in High Court Misc Application No E007 of 2023.
  - e. That costs of this Application be in the cause
2. The Application is supported by the grounds made on the face of the said Application and the supporting affidavit of the 2<sup>nd</sup> applicant, Mohammed Woche who contends that they were dissatisfied with the ruling of Hon Justice Nyaga delivered on 17<sup>th</sup> December 2024 and had filed a notice of Appeal giving notice of their intention to challenge the said Ruling.



3. The Appeal filed had high chances of success and unless the orders sought were granted, they stood to be extremely prejudiced as the respondents would prosecute this Appeal before their Appeal to the court of Appeal was heard on merit. It was therefore in the interest of justice for the said orders to be granted.
4. When the parties' counsels appeared before court on 06.02.2025, the respondents counsel, Mr. Halake stated that he had not been served with this Application and the court directed that he be served to enable him file a response. On 06.03.2025 the respondent counsel did not attend court and the affidavit of service filed showed that he was served with this Application through his email on 2<sup>nd</sup> February 2025.
5. The Appellants/Respondents did not file any response to this Application and by dint of Order 51 Rule 14 of the Civil procedure Rules, the same is deemed to be unopposed as no response to the said application has been filed.
6. The Notice of Motion Application dated 14.01.2025 is therefore allowed in terms of prayer (4). The proceeding herein will be stayed pending the hearing and determination of the Appeal filed by the Respondents/Applicants to the court of Appeal.
7. The costs of this Application will be in the cause.
8. It is so ordered.

**READ, SIGNED, AND DELIVERED VIRTUALLY AT MARSABIT ON THIS 13<sup>TH</sup> DAY OF MARCH, 2025.**

**FRANCIS RAYOLA OLEL**

**JUDGE**

Delivered on the virtual platform, Team this 13<sup>th</sup> day of March, 2025.

In the presence of: -

..... Appellant  
 ..... Respondent  
 ..... Court Assistant

