



REPUBLIC OF KENYA



Ndunge v Gathuri (Civil Appeal E120 of 2024) [2025] KEHC 6473 (KLR) (15 May 2025) (Ruling)

Neutral citation: [2025] KEHC 6473 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KERUGOYA**

CIVIL APPEAL E120 OF 2024

EM MURIITHI, J

MAY 15, 2025

BETWEEN

JULIUS KABOGO NDUNGE APPELLANT

AND

JOSEPH WANJAU GATHURI RESPONDENT

RULING

1. By its order of 28.11.2024, the Court (R. Mwongo J.) made the following orders on the application for leave to appeal:

Court:

1. The Applicant is granted leave to appeal and stay of execution on the following conditions:
 - a. He shall deposit the decretal sum in a joint interest earning account of the two counsel within 30 days from the date hereof.
 - b. The parties shall co-operate in the opening of the joint account and a written record of such co-operation/ events of co-operation shall be maintained.
 - c. In the event of default in compliance with the above conditions, leave and stay shall lapse and execution shall proceed.
2. Mention 30.1.2025.
R. Mwongo - Judge
28.11.2024.”
2. On 30/1/2025 Mr. Shimoli for appellant attended Court and informed the Court that the appellant had not complied with the order of the Court and requested that the appeal be admitted to hearing. Mr. Mathenge for the Respondent pointed out that the matter was at the stage of leave to appeal and



the matter was placed for mention on 24/3/2025 to allow the appellant to comply with the orders of the Court.

3. On 24/3/2025, with no compliance and absent the counsel for the applicant, the Court granted the respondent's request to file submissions on the question of leave to appeal and ruling was reserved for 15/5/2025.
4. Having considered the terms of the order of the Court dated 28/11/2024, the Court is in the default of compliance by the appellant with the terms of order of court on grant of leave constrained to hold that the appellant's leave to appeal which was conditional upon the conditions therein set out, has lapsed.

Orders

5. The application for leave to appeal is marked abandoned. There shall be no order as to costs.
6. File closed.

Order accordingly.

DATED AND DELIVERED THIS 15TH DAY OF MAY 2025.

EDWARD M. MURIITHI

JUDGE

Appearances:

Mr. Shimoli for the Applicant.

Mr. Mathenge for Respondent.

