



REPUBLIC OF KENYA



KENYA LAW
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**Mukunga v Sakura (Family Appeal E004 of 2025)
[2025] KEHC 8259 (KLR) (12 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 8259 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BUNGOMA
FAMILY APPEAL E004 OF 2025
REA OUGO, J
JUNE 12, 2025**

BETWEEN

JOHNSTONE KISOMBE MUKUNGA APPELLANT

AND

JANE JERUTO SAKURA RESPONDENT

RULING

1. The applicant is seeking a stay of court proceedings in Sirisia PMCC Succession Cause No. E008 OF 2023 pending the hearing and determination of the appeal. He claims to be aggrieved with the Rulings delivered on the 28.2.2025.
2. He avers in his affidavit in support of the application that he has filed an appeal that is arguable and has chances of success. He states that if the stay is not granted, the appeal will be rendered nugatory and academic, and he will be disinherited.
3. The application wasn't opposed.
4. Justice Ringera stated as follows in the case of Global Tours & Travels Limited Nairobi High Court winding up Case No. 43 of 2000.

“As I understand the court, whether or not the grant a stay of proceedings on further proceedings on a decree or order appealed from is a matter of judicial discretion to be exercised in the interest of justice..... The sole question is whether it is in the interest of justice to order a stay of proceedings and if it is, on what terms it should be granted. In deciding whether to order a stay, the court should essentially weigh the provisions and circumstances of granting or not granting the order....”.

5. In this instance, the applicant seeks to stay the proceedings on the grounds that he has an arguable appeal and could be disinherited. The application was filed within a reasonable time. I have read the



memorandum of appeal dated March 17th , 2024, and I find that the applicant indeed has an arguable appeal. In my view, the Respondent will not be prejudiced if a stay order is granted.

6. After weighing the pros and cons, I am persuaded that a stay of proceedings order is necessary. I, therefore, stay the court proceedings in Sirisia SPMCC Succession Case No. E008 of 2023 pending the hearing and determination of the appeal. The appellant must ensure that the Record of Appeal is filed within 30 days. Costs shall be in the cause.

DATED, SIGNED, AND DELIVERED AT BUNGOMA ON THIS 12TH DAY OF JUNE 2025.

R.E. OUGO

JUDGE

In the presence of;

Mr. Wattangah -For the Appellant/ Applicant

Respondent - Absent

Wilkister- C/A .

