



**Platinum Credit Limited v Malia (Civil Appeal E164 of 2024)
[2025] KEHC 8826 (KLR) (20 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 8826 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MOMBASA
CIVIL APPEAL E164 OF 2024**

**J NGAAH, J
JUNE 20, 2025**

BETWEEN

PLATINUM CREDIT LIMITED APPELLANT

AND

STEPHEN MUTHOKA MALIA RESPONDENT

RULING

1. The application before court is a motion dated 25 September 2024 expressed to be brought under sections 1A, 1B and 3 of the *Civil Procedure Act* cap. 21; and, order 42 and order 51 Rules 1 and 3, and of the *Civil Procedure Rules*. The applicant seeks orders:
 1. That the court be pleased to issue an order that the stay of execution granted to the Appellant/Applicant by this Honourable Court on the 24th day of June 2024 be and is hereby discharged and/or overtaken by events.
 2. That as a consequence thereof, the sum of Kshs.204,214, being half the decretal sum in *Mombasa SCCOMM E330 of 2024* between the same parties and deposited in court on 27th June 2024 be released to the Appellant herein through it advocates on record, Messrs M K Onsongo & Co. Advocates unconditionally.
2. The applicant also asked that the costs of the application be in the cause.
The application is supported by the affidavit of Ms. Miriam Onsongo, the learned counsel for the applicant.
3. The background of the applicant's application is that on 24 June 2024, this Honourable Court issued an order for stay of execution of the decree in *Mombasa SCCOMM E330 of 2024* on condition that the Appellant deposits half the decretal sum in court within three days.



4. Despite the appellant complying with the court's order, and depositing the sum of Kshs. 204,214 within the prescribed timeline, more particularly on 27 June 2024, the respondent through its agents, M/s Alfajiri Auctioneers, proceeded with the execution as a result of which the appellant settled the decretal sum in full together with the auctioneer's costs. The appellant took this step because the goods that the auctioneers had removed from its premises contained the appellant's client's data which the appellant has described as "sensitive".
5. Indeed, the record shows that this Honourable Court ordered the appellant to deposit half of the decretal sum in court as a condition for stay of execution of the decree obtained in the Small Claims Court. In compliance with the orders of the Court, the appellant deposited the amount of Kshs. 204,214. There is proof exhibited to Ms. Onsongo's affidavit that subsequently, the respondent was paid the total decretal sum.
6. Although the respondent has opposed the application, he has not denied that decretal sum together with the auctioneers' charges have been paid.
7. The deposit of half of the decretal sum was obviously made as security for satisfaction of the decree in the event the appeal fails. But the entire decretal amount having been paid, there is no reason for holding the security any longer. Accordingly, the applicant's application dated 25 September 2025 is allowed. The respondent shall bear the costs of the application. Orders accordingly.

SIGNED, DATED AND DELIVERED ON 20 JUNE 2025

NGAAH JAIRUS

JUDGE

