



**Ranyanya & another v Ochieng (Civil Appeal E052 of 2021)
[2025] KEHC 11397 (KLR) (21 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 11397 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BUNGOMA
CIVIL APPEAL E052 OF 2021
MS SHARIFF, J
JULY 21, 2025**

BETWEEN

RAYMOND OTIENO RANYANYA 1ST APPELLANT

WILLIAM NDINYO OMOLLO 2ND APPELLANT

AND

BELINDER ATIENO OCHIENG RESPONDENT

RULING

1. The appellants have moved this court vide a Notice of motion dated 7.7.2025 under the provisions of order 22 order Rule 22 order 42 Rule 6, order 50 Rule 5 and order 51 Rule 1 & 3 of Civil Procedure Rules. They have also premised the application on Sections 1A, 1B, 3A and 95 of the Civil Procedure Act. They are craving for leave to be granted to the firm of Kaira & McCourt Advocates to come on record in place of the firm of Kimondo Gachoka & Co. Advocate for the appellants and an order of stay of attachment and sale of motor vehicle Registration No. KBV 749 T proclaimed on 3.7.2025 by Ms Dominion Yards Auctioneers. The appellants also craved for extension of time within which to pay the costs taxed at Ksh. 94,210/- as per the Certificate of costs dated 1st July 2025.
2. The respondent has resisted the application by way of grounds of opposition dated 21.7.2025 wherein she states that there is inordinate delay in bringing this application, no risk of substantial loss has been demonstrated, no sufficient cause has been shown to warrant the grant of stay costs as taxed and that in any event there cannot be a stay on costs.
3. The application has been canvassed today by way of oral submissions and the gist of the appellants' submission are that whereas they had been granted a 45 day's stay of execution upon taxation of the costs, the accounts of their insurer Ms Directline Assurance company Ltd, had been frozen hence the delay in payment of the same. They thus crave for extension of time for another 45 days to enable them pay the said taxed costs.



4. The respondent counsel Mr Anwar has submitted that the appellants have failed to honour a consent order that granted them 45 days stay as from November 2024 and there has been inordinate delay of 8 months in moving this court. He further submitted that there cannot be a stay on taxed costs. That the appellants are employing delay tactics as the judgement sum has not been paid yet. Further that Ms Directline Assurance Company Ltd is not a party herein.
5. I have considered the application, the affidavit in support thereof and the grounds of opposition. I have also considered the rival submissions of parties' Counsels and the issues that emerge for consideration are whether the appellants are entitled to an order of stay of execution of taxed costs sought and whether Ms Kairu McCourt & Co ought to be granted leave to come on record for the appellants.
6. It is indeed trite law that there cannot be an order of stay on costs, with exception that parties can consent to a stay of execution on taxed costs. Indeed in this appeal the appellants were granted a 45 days stay of execution on cost by consent of parties. They failed to honour that consent. They have thus approached this court with tainted hands.
7. The delay of 8 months in moving this court has not been explained at all.
8. Indeed Ms Directline Assurance Company Ltd is not a party in this appeal given that this is not a declaratory suit; the affairs of Ms Directline Assurance Company Ltd have no bearing at all on this appeal.
9. On the balance I do agree with the respondent that the appellants are out to keep her away from enjoying the fruits of judgement entered in her favour. This court will not condone such conduct on the part of the appellants and it takes into account the fact that they are yet to settle the decretal sum.
10. On the balance I do find that save for the prayer for substitution of Messrs Kimondo Gachoka with Messrs Kairu McCourt which I allow, the rest of the appellants' application is devoid of merit and I dismiss it accordingly with costs to the respondent assessed at Ksh 10,000/-
11. The appellants shall also pay the auctioneers costs of Ksh. 87,316/-
12. This file is hereby marked as closed.

DELIVERED, SIGNED AND DATED AT BUNGOMA THIS 21ST DAY OF JULY, 2025.

MWANAISHA S. SHARIFF

JUDGE

