



**Watene v Kiya & another (Civil Appeal E082 of 2025)
[2025] KEHC 11082 (KLR) (15 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 11082 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BUNGOMA
CIVIL APPEAL E082 OF 2025
MS SHARIFF, J
JULY 15, 2025**

BETWEEN

JACOB MBUGUA WATENE APPELLANT

AND

BRIAN MANGONGE KIYA 1ST RESPONDENT

KITALE LINKS SAACO LTD 2ND RESPONDENT

RULING

1. I have considered the Notice of motion dated 12.6.2025, the supporting affidavit sworn by Jacob Mbugua Watene on even date and the annexures attached thereto. I have also considered the Replying affidavit sworn by Brian Mangonge Kiyah on 24th June 2025 and I have also considered the oral submissions of Mr Amihanda for the applicant and Mr Okara for the respondent and I do find that the applicant is ready and willing to offer Security for the eventual Settlement of the Judgment sum upon conclusion of this appeal, wherefore there is due compliance with the provision of Order 42 Rule 6. This application has been filed without delay. I thus find that the Appellant;s/applicant's application herein is well merited and there is need to issue stay orders. I therefore allow this application and I make the following orders;
 - i. An order of stay of execution is hereby granted against the Judgement delivered on 7th May 2025 in Kimilili CM CC No. E174 of 2021 until this appeal is heard and determined on condition set hereunder: -
 - a. One half of the decretal sum being Ksh 503,790/- be paid to the respondent's advocates within 45 days and the other half of Ksh 503, 790/- be deposited in a joint interest earning account in the name of the parties advocates with a reputable bank within 90 days from the date hereof.



- ii. In the event of default with order 1 (a) herein above the respondents shall be at liberty to execute.
- iii. The respondents are awarded costs of this application assessed at Ksh 10,000/- payable within 45 days given the date hereof.

DELIVERED, SIGNED AND DATED AT BUNGOMA THIS 15TH DAY OF JULY 2025.

M.S. SHARIFF

JUDGE

