



REPUBLIC OF KENYA



KENYA LAW
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**Wambugu v Kiarie (Civil Appeal E070 of 2023)
[2024] KEHC 2407 (KLR) (16 January 2024) (Directions)**

Neutral citation: [2024] KEHC 2407 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
CIVIL APPEAL E070 OF 2023
DO CHEPKWONY, J
JANUARY 16, 2024**

BETWEEN

JOHN MWANGI WAMBUGU APPELLANT

AND

MATTHEW CHEGE KIARIE RESPONDENT

DIRECTIONS

1. What is before the court is the Notice of Motion Application dated 15th March, 2023 filed under Order 42 rule 6 (1) and 51 of the Civil Procedure Rules and Article 48 of the Constitution of Kenya 2010.
2. The Application seeks the following orders:
 - a. Spent;
 - b. Spent;
 - c. That the exparte interlocutory Judgment entered on 19th September, 2019 and all consequential orders and Decree be set aside and the applicants be granted leave to file defence.
 - d. That there be a stay of execution of the decree unconditionally or upon such reasonable terms pending the hearing and determination of the Applicants' appeal.
 - e. That costs of this application be provided for.
3. The court has noted that the Application was dispensed with on 15th March, 2023 when the court gave conditional stay of execution that half of the decretal sum to be deposited in court. The court further notes that this condition was complied with as there is a deposit slip confirming payment of Kshs. 226,109/= . In view of this, the court finds that there is no need to deal with the application for stay of execution.



4. On the orders seeking to have the Judgment set aside, the court finds that this goes to the merits of the Appeal which this court cannot address at this juncture until Directions for hearing of the Appeal have been given. In the circumstances upon delivery of this Ruling, this court proceeds to give directions for the disposal of the Appeal in the following terms:-

- a. Mention on 8th February, 2024 for parties to take directions on the disposal of Appeal.
- b. Notice to issue upon parties and or counsel.

It is so ordered.

RULING DELIVERED, DATED AND SIGNED AT KIAMBU THIS 16TH DAY OF JANUARY, 2024.

D. O. CHEPKWONY

JUDGE

In the presence of:

No appearance for and by either party

Court Assistant – Martin/Kinyua

