



**Gillmark Petroleum Ltd v Ndengu (Civil Appeal E114 of 2023)
[2024] KEHC 5933 (KLR) (22 May 2024) (Ruling)**

Neutral citation: [2024] KEHC 5933 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
CIVIL APPEAL E114 OF 2023**

MS SHARIFF, J

MAY 22, 2024

BETWEEN

GILLMARK PETROLEUM LTD PLAINTIFF

AND

EDWIN LUKOE NDENGU DEFENDANT

RULING

I have considered the notice of motion dated 10.5.2024, the affidavit in support thereof, the replying affidavit and the rival submissions of parties and I do hereby allow the same and make the following orders:-

1. An order of stay of execution is hereby issued against the judgment in Kisumu small Claims Court No. E074 of 2023 until this appeal is heard and determined on condition that:
 - a. The Appellant deposits a sum of Kshs.100,000 with the Respondent's advocates within 4 days from the date hereof.
 - b. The balance of Kshs.250,000 to be deposited in a joint interest earning account of parties advocates within 90 days from the date hereof.
2. In the event of default in compliance with order 1(a) and (b) hereinabove the Respondent shall be at liberty to execute.
3. The Appellants are directed to file and serve their record of appeal and submissions within 14 days from the date hereof and the Respondent to file his submissions within 28 days from the date hereof.
4. Mention on 10.7.2024 to confirm compliance.



DATED, SIGNED AND DELIVERED AT KISUMU THIS 22ND DAY OF MAY, 2024

M. S. SHARIFF

JUDGE

