



**Kamathi v Mutuma (Civil Appeal E003 of 2024)
[2024] KEHC 7194 (KLR) (13 June 2024) (Ruling)**

Neutral citation: [2024] KEHC 7194 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
CIVIL APPEAL E003 OF 2024
TW CHERERE, J
JUNE 13, 2024**

BETWEEN

DAUGLAS KAMATHI APPLICANT

AND

MOSES MUTUMA RESPONDENT

RULING

Background

1. By an order dated 16th January, 2024, this court issued an *ex parte* order for stay of execution of the decree in Meru CMCC E320 OF 2022 upon the Applicant depositing KES. 500,000/- with the court.
2. On 29th February, 2024, counsel for both parties entered into a consent reiterating the order for deposit of KES. 500,000/- and a further order that the intended appeal be filed and served within 60 days.
3. Applicant deposited the sum of KES. 500.000/- on 19th January, 2024 but has to date not filed the intended appeal.
4. By notice of motion dated 09th May, 2024, Respondent seeks release of the deposited security to his advocate on the ground that Applicant has not filed the intended appeal.
5. Applicant's counsel though served on 06th June, 2024 neither appeared nor opposed the application.
6. I have considered the notice of motion dated 09th May, 2024. The Respondent was denied the fruits of his judgment on the basis that Applicant intended to appeal the judgment in Meru CMCC E320 OF 2022. It however appears that the Applicant has lost interest in pursuing the appeal.
7. Consequently, the notice of motion dated 09th May, 2024 is considered and allowed in the following terms:



- a. KES. 500,000/- deposited as security in this matter shall be released to the Respondent's advocates Mutegi Mugambi & Co. Advocates *vide* Credit Bank Account No. 017xxxx0159
- b. This file is closed

DATED AT MERU THIS 13th DAY OF JUNE 2024

WAMAE. T. W. CHERERE

JUDGE

Appearances

Court Assistant - Morris Kinoti

For Applicant - N/A for Kimondo Gachoka & Co. Advocates

For Respondent - Mr. Mutegi for Mutegi Mugambi & Co. Advocates

