



**Kamau v Adeah & another (Miscellaneous Application E495 of 2023)
[2024] KEHC 9174 (KLR) (Civ) (15 July 2024) (Ruling)**

Neutral citation: [2024] KEHC 9174 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CIVIL
MISCELLANEOUS APPLICATION E495 OF 2023
JN MULWA, J
JULY 15, 2024**

BETWEEN

BERNARD NGANGA KAMAU APPLICANT

AND

SACHA ADEAH 1ST RESPONDENT

JOSEPH MUGWE MAINA 2ND RESPONDENT

RULING

1. The Applicant by the Motion dated 5/07/2023 sought orders of stay of execution and leave to file appeal out of time premised on provisions of Order 22 Rule 22 and Order 42 Rule 6 of the [Civil Procedure Rules](#) and Sections 3 and 3A of the [Civil Procedure Act](#).
2. The trial Court's judgment against which the applicant seeks the above orders was delivered on 2/08/2022.

Reasons for the one-year delay in filing the intended Appeal are stated at the grounds as well as in the Supporting Affidavit sworn on 5/07/2023 by Ms Ketta advocate.

In opposition, the Respondent filed a Replying Affidavit sworn on 6/10/2023 by the 1st Respondent.
3. On the hearing of the Application interpartes on 2/11/2023 the Respondent informed the court that he had already filed a declaratory suit at the subordinate court against the Insurance Company Directline Insurance Company being CMCC No. 1298//2023 and that the applicant had indicated to him his willingness to stay execution proceedings to await hearing and determination of the declaratory suit.
4. It is instructive that a conditional stay of execution had been granted to the Applicant upon his depositing a sum of Kshs. 100,000/= into court as security which order the applicant complied with.



In the premises, the court on 2/11/2023 directed that status quo by both parties remain in force to await judgment in the declaratory suit.

5. That being the case, further hearing of the motion dated 5/07/2023 is stayed to avoid proceedings being conducted in two different courts over the same subject matter.

Orders accordingly.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 15TH DAY OF JULY 2024.

JANET MULWA

JUDGE

