



Moses Ongonga Sudhe t/a Mongasud General Enterprises v Jared Ochieng Ochieng t/a Glassmart & General Hardware (Civil Appeal E135 of 2024) [2024] KEHC 8494 (KLR) (16 July 2024) (Ruling)

Neutral citation: [2024] KEHC 8494 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
CIVIL APPEAL E135 OF 2024
MS SHARIFF, J
JULY 16, 2024**

BETWEEN

MOSES ONGONGA SUDHE T/A MONGASUD GENERAL ENTERPRISES APPELLANT

AND

JARED OCHIENG OCHIENG T/A GLASSMART & GENERAL HARDWARE RESPONDENT

RULING

1. Upon perusal of the Appellant’s notice of motion dated 12th July 2024, the certificate of urgency issued by MacOgot Yvette advocate on even date and the supporting affidavit sworn on the same date by Moses Ongonga sudhe I do note that the Appellant seeks orders of stay of execution and/or further execution of the decree herein yet this court has not made any decree in this appeal and it is inconceivable that this court while exercising its appellate jurisdiction can issue a decree.
2. Premised on the reasons aforestated I do find that the application herein is bad in law ab ignition, incurably and fatally defective wherefore I hereby strike it out.
3. The Appellant is directed to file his record of appeal simultaneously with his submissions within 10 days from the date hereof and the Respondent to file his submissions within 20 days from the date hereof.
4. Mention on 8.8.2024 to confirm compliance.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 16TH DAY OF JULY, 2024.

**M. S. SHARIFF
JUDGE**

