



Two Four Seven Energy for Supply of Petroleum Product v Ilode (Civil Appeal E008 of 2024) [2024] KEHC 10834 (KLR) (20 September 2024) (Ruling)

Neutral citation: [2024] KEHC 10834 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BUSIA
CIVIL APPEAL E008 OF 2024
WM MUSYOKA, J
SEPTEMBER 20, 2024**

BETWEEN

**TWO FOUR SEVEN ENERGY FOR SUPPLY OF PETROLEUM
PRODUCT APPELLANT**

AND

LINUS OKUKU ILODE RESPONDENT

(an appeal arising from the decision of Hon. Kassim Akida, Resident Magistrate, RM, in Busia SCCC No. E029 of 2023, of 9th February 2024)

RULING

1. The application, dated February 26, 2024, seeks stay of execution of the decree passed by the trial court, and an order deeming that the draft memorandum of appeal was duly filed upon payment of the requisite fees. The appellant argues that its request, at the delivery of the judgment, for stay of execution, was denied, yet it had an arguable appeal.
2. In response, to the instant Motion, *vide* an affidavit, sworn on 16th April 2024, the respondent argues that the appellant had not deposited the decretal amount in court, and that stay ought to have been sought first at the trial court. .
3. The appellant is dissatisfied with the determination by the trial court, and it has chosen to challenge that verdict on appeal, to get a second opinion, of a higher court. It is within its constitutional rights to do so.
4. The only thing outstanding would be orders to persevere the subject-matter, while protecting the rights of the successful party at the trial court.
5. The best way forward would be to deem that the memorandum of appeal herein is properly on record, so long as it has been paid for. There shall be stay of execution of the decree of the trial court, subject to



the condition that the appellant deposits ½ of the said amount, that is to say ½ of Kshs. 910,000.00, in a joint interest earning account, in the names of the Advocates for the parties hereto, within 21 days.

6. To move this matter forward, it shall be mentioned on 17th October 2024, for compliance and further directions, by which time the appellant should have filed and served a record of appeal. Orders accordingly .

DELIVERED VIA EMAIL, DATED AND SIGNED, IN CHAMBERS, AT BUSIA, THIS 20TH DAY OF SEPTEMBER 2024.

W MUSYOKA

JUDGE

Mr. Arthur Etyang, Court Assistant.

Advocates

Mr. Ojijo, instructed by Ojijo Senati & Company, Advocates for the appellant.

Mr. Ouma, instructed by Ouma & Company, Advocates for the respondent.

