



**Thongu t/a Eldoret Express v Olisa (Suing as legal representative of
Loreen Jackline Kweno (Deceased) (Miscellaneous Civil Application
E212 of 2024) [2024] KEHC 11130 (KLR) (19 September 2024) (Ruling)**

Neutral citation: [2024] KEHC 11130 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
MISCELLANEOUS CIVIL APPLICATION E212 OF 2024
MS SHARIFF, J
SEPTEMBER 19, 2024**

BETWEEN

SIMON MBUGUA THONGU T/A ELDORET EXPRESS APPLICANT

AND

**ANN KWENDO OLISA (SUING AS LEGAL REPRESENTATIVE OF LOREEN
JACKLINE KWENO (DECEASED) RESPONDENT**

RULING

1. I have considered the Applicant's notice of motion dated 25.4.2024, the affidavit in support thereof sworn on even date by Christine Musando advocate and the enclosures therein. I have also considered the oral submissions of parties' advocates and I do hereby allow the application and I make the following orders:-
 1. The Applicant is granted leave to file an appeal against the judgment in Kisumu CMCC No. E051 of 2023: Ann Kwendo v Simon Mbugua Thongu within 3 days from the date hereof.
 2. An order of stay of execution of the judgment delivered on 28.3.2024 in Kisumu CMCC No. E051 of 2023: Ann Kwendo v Simon Mbugua Thongu t/a Eldoret Express is hereby granted until the intended appeal is heard and determined on condition that the Applicant do deposit in a joint interest earning account of parties' advocates the sum of KShs.3,484,432 within 45 days from the date hereof.
 3. In the event of default in compliance with order 2 hereinabove, the stay orders shall automatically lapse and the Respondent shall be at liberty to execute.
 4. The Applicant is directed to file the record of appeal within 7 days from the date hereof.
 5. This file is marked as closed.



DATED, SIGNED AND DELIVERED AT KISUMU THIS 19TH DAY OF SEPTEMBER, 2024.

M. S. SHARIFF

JUDGE

