



**ABSA Bank PLC v Waithanji (Civil Appeal 104 of 2019)
[2023] KEHC 1561 (KLR) (9 March 2023) (Ruling)**

Neutral citation: [2023] KEHC 1561 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
CIVIL APPEAL 104 OF 2019
HK CHEMITEI, J
MARCH 9, 2023**

BETWEEN

ABSA BANK PLC APPLICANT

AND

SAMUEL KINGORI WAITHANJI RESPONDENT

RULING

1. In its notice of motion dated 1st August 2022 the applicant prays that there be stay of execution of this court's judgement delivered on June 23, 2022 pending the intended appeal at the Court of Appeal. The application is supported on the grounds thereof and the sworn affidavit of Michael Massawa sworn on the same date.
2. The application is not opposed despite the presence of the respondent's counsel in the proceedings.
3. Since the applicant wishes to exercise its right of appeal this court does not see any injury the respondent stands to suffer as provided under order 42 rule 6 of the *Civil Procedure Rules*.
4. In the premises, let there be stay of this court's judgement delivered on June 23, 2022 pending the hearing and determination of the appeal by the applicant before the Court of Appeal.
5. Costs shall await the outcome of the appeal.

DATED SIGNED AND DELIVERED AT NAKURU VIDE VIDEO CALL THIS 9TH DAY OF MARCH 2023.

H. K. CHEMITEI.

JUDGE

