



**Njenga & another v Wamanya (Civil Appeal E396 of 2022)
[2023] KEHC 3847 (KLR) (Civ) (3 May 2023) (Ruling)**

Neutral citation: [2023] KEHC 3847 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

CIVIL

CIVIL APPEAL E396 OF 2022

JN MULWA, J

MAY 3, 2023

BETWEEN

PATRICK NGANGA NJENGA 1ST APPELLANT

JAMES MUCHIRI CHEGE 2ND APPELLANT

AND

PETER OTSIENO WAMANYA RESPONDENT

RULING

1. By a motion dated 13/06/2022, the Appellants sought a myriad of orders, ranging from stay of proceedings in the trial court case No. CMCC No. 7594 of 2020 and stay of execution of rulings delivered on 8/08/2021, 5/06/2022, 25/04/2022, and 15/06/2022.
However, on the 13/07/2022, Ms. Gulenywa Advocate for the Appellants told this court that judgment in the trial court had since been delivered, thus rendering the application, in my view moot, having been overtaken by events.
2. Despite the above, Ms. Gulenywa Advocate proceeded to file submissions on the said application dated 13/06/2022, without amending the application which had been filed at an interlocutory stage before the judgment was delivered. The submissions are dated 4/10/2022.
3. A glimpse of the submissions shows that they are in support of the interlocutory rulings dated 8/06/2022, 8/08/2021 and 5/06/2022 and 25/04/2022.
4. By the fact that judgment has been delivered in the trial court, in my view, stay of execution of the said rulings has been overtaken by the said event, and it would make no legal or procedural sense to consider and make findings and determination of the same.



5. The court has also observed that after delivery of the judgment whose date was not disclosed, no other application has been filed to seek stay of execution of the judgment pending appeal.
6. The Respondent too has filed submissions dated 18/08/2022, bringing out the events that took place in the trial court up to the delivery of judgment in the trial Court.
7. Having carefully interrogated the Appellants' application dated 13/06/2022, and the subsequent events thereafter, and the fact that the applicants have found it not fit to file or amend their application, I am left with no option but to dismiss the application dated 13/06/2022 with costs, the same having been overtaken by events.
8. The upshot is that the application dated 13/06/2022 is dismissed with costs to the Respondent.

DELIVERED DATED AND SIGNED AT NAIROBI THIS 3RD DAY OF MAY 2023.

J. N. MULWA

JUDGE

