



REPUBLIC OF KENYA



KENYA LAW
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**Barasa v Oyengo (Miscellaneous Application 67 of 2022)
[2023] KEHC 18350 (KLR) (2 June 2023) (Ruling)**

Neutral citation: [2023] KEHC 18350 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAKAMEGA
MISCELLANEOUS APPLICATION 67 OF 2022**

WM MUSYOKA, J

JUNE 2, 2023

BETWEEN

AMUHAYA DIANA BARASA APPLICANT

AND

PETER SIMBI OYENGO RESPONDENT

RULING

1. The Motion, dated August 2, 2022, is for stay of execution and leave to appeal the judgment, delivered in Kakamega CMCCC No. E29 of 2021, on June 14, 2022.
2. The applicant complains that he had no notice of the delivery of the judgment, hence he did not attend court on June 14, 2022, when it was delivered. He only came to learn of it on July 5, 2022, when a bill of costs was served, and he obtained a copy of the judgment on July 18, 2022, and he instructed his Advocates to appeal on July 19, 2022, hence the instant application.
3. The applicant has moved quite promptly to stay execution and to seek leave to appeal. Discretion can quite properly be exercised in his favour. I, accordingly, allow the application, dated August 2, 2022. The appeal shall be filed within 30 days, in default the stay order shall lapse.

**DELIVERED, DATED AND SIGNED IN OPEN COURT AT KAKAMEGA THI 2ND DAY OF JUNE
2023**

W MUSYOKA

JUDGE

Mr. Erick Zalo, Court Assistant.

Appearances

Ms. Miheso, instructed by LG Menezes & Company, Advocates for the applicant.



Mr. Abok, instructed by Abok Odhiambo & Company, Advocates for the respondent.

