



**Tumaz & Tumaz v Ryce East Africa Limited (Civil Appeal
E055 of 2022) [2023] KEHC 20606 (KLR) (21 July 2023) (Ruling)**

Neutral citation: [2023] KEHC 20606 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KAKAMEGA
CIVIL APPEAL E055 OF 2022
WM MUSYOKA, J
JULY 21, 2023**

BETWEEN

TUMAZ & TUMAZ APPELLANT

AND

RYCE EAST AFRICA LIMITED RESPONDENT

(Being an appeal from the ruling and order of Hon. G Ollimo, Senior Resident Magistrate, SRM, delivered on 28th July 2022, in Butere SPMCCC No. 100 of 2018)

RULING

1. I have not had the benefit of seeing the original trial court records, inclusive of pleadings, save for the judgment delivered on 28th July 2022. The case for the appellant was dismissed, and the counterclaim by the respondent was allowed. The appeal herein arises from that judgment.
2. What I am called upon to determine, at this point, is the Motion, dated 25th August 2022, for stay of execution of the judgment pending appeal.
3. The appellant is entitled to appeal upon being dissatisfied with the determination of the trial court. The only thing for me to determine is whether to grant stay of execution, and if I am inclined to, on what terms.
4. I shall allow the application, dated 25th August 2019, having granted temporary orders on 19th September 2022. The stay is conditioned on the appellant depositing in court half of the judgment sum, within 45 days.
5. To move the matter forward, I direct the appellant to file and serve record of appeal within 30 days, and the Deputy Registrar to call for the original trial records right away. The matter shall be mentioned for directions within 45 days. Orders accordingly.



**DELIVERED, DATED AND SIGNED IN OPEN COURT AT KAKAMEGA THIS 21ST DAY OF
JULY 2023**

W MUSYOKA

JUDGE

Mr. Erick Zalo, Court Assistant.

Appearances

Mr. Mulama, instructed by Javier Georgiadis & Sylvester LAW LLP, Advocates for the appellant.

Ms. Loruto, instructed by Cecil Kouko & Associates, Advocates for the respondent.

