



Directline Assurance Company Limited v Maina; Kilului (Legal Administrator of the Estate of Stephen Munyao (Deceased)) (Interested Party) (Civil Appeal E156 of 2022) [2024] KEHC 15817 (KLR) (10 December 2024) (Judgment)

Neutral citation: [2024] KEHC 15817 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MACHAKOS
CIVIL APPEAL E156 OF 2022
JM OMIDO, J
DECEMBER 10, 2024**

BETWEEN

DIRECTLINE ASSURANCE COMPANY LIMITED APPELLANT

AND

MARY NYAMBURA MAINA RESPONDENT

AND

**KAVUTHA KILULUI (LEGAL ADMINISTRATOR OF THE ESTATE OF
STEPHEN MUNYAO (DECEASED)) INTERESTED PARTY**

(Being an Appeal from the Judgement and Decree of Hon. A.G. Kibiru, Chief Magistrate delivered on 16th February, 2022 in Machakos CMCC No. E137 of 2021)

JUDGMENT

1. The Appellant, Directline Assurance Limited has brought this appeal, being aggrieved by the decision of the Chief Magistrate’s Court (Hon. A.G. Kibiru) sitting at Machakos, delivered on 16th February, 2022 in Machakos CMCC No. E137 of 2021.
2. The Appellant has presented the following grounds of appeal vide the Amended Memorandum of Appeal dated 11th September, 2023:
 - 1A. That the learned trial Magistrate failed to appreciate and/or take into consideration the Appellant’s defence, evidence and entire submissions and especially on the following issues:
 - i). That the Appellant had already made a payout of Ksh.1,000,000/- to the Estate of Stephen Munyao through the Administrator Juliana Wayua Mutisya via their Advocates Gakoi Maina & Co. Advocates.



- ii). That there was evidence produced by the Appellant proving settlement of Ksh.1,000,000/- to the Estate of Stephen Munyao and a discharge voucher issued and executed thereto.
 - iii). That the Appellants pleaded fraud and collusion against the Administrators of the Estate of Stephen Munyao.
 - 1B. That the learned trial Magistrate erred in disregarding the provisions of Section 5(b)(iv) of the Insurance (Motor Vehicle Third Party Risks) Act while arriving at his decision as per the judgement delivered on 16th February, 2022 despite the claim in the trial court having its root in Cap 405.
 2. That the learned trial Magistrate erred and misdirected himself in failing to internalize the import of Section 5(b)(iv) of the Insurance (Motor Vehicle Third Party Risks) Act as provided in law and consequently the decision of the trial court is against the spirit and the letter of the law i.e. Section 5(b)(iv) of the Insurance (Motor Vehicle Third Party Risks) Act Cap 405.
 3. That the learned trial Magistrate erred in law in holding that the Appellant was bound in law to settle the decretal sum, costs and interest in Machakos CMCC No. 313 of 2018 and failed to consider that the decretal amount was a substantial amount in light of the provisions of Section 5(b)(iv) of the Insurance (Motor Vehicle Third Party Risks) Act Cap 405 Laws of Kenya.
 4. That there was a mistake and/or error apparent on the face of the record in the learned trial court's decision on the issue of 3rd Party proceedings that can only be redressed by an order of review.
3. Through the appeal, the Appellant proposes that:
 - a. The appeal be allowed with costs.
 - b. The judgement in favour of the Respondent be set aside and be substituted with an order of this court applying and/or considering the provisions of Section 5(b)(iv) of the Insurance (Motor Vehicle Third Party Risks) Act Cap 405, reviewing the trial court's order on the issue of 3rd Party proceedings as it deems fit.
 - c. The judgement in favour of the Respondent be set aside and be substituted with:
 - i). An order of this court finding that the sum of Ksh.1,000,000/- paid to the Estate of Stephen Munyao was in full and final settlement of any claim arising out of the accident of 12th September, 2015 with regard to the said Estate.
 - ii). In the alternative an order of this court applying and/or considering the sum of Ksh.1,000,000/- already paid out of the Estate of Stephen Munyao and reducing the same from the decretal amount awarded in Machakos CMCC No. E137 of 2021.
 - iii). An order of this court applying and/or considering the provisions of Section 5(b)(iv) of the Insurance (Motor Vehicle Third Party Risks) Act Cap 405.
 - iv). An order of this court reviewing the trial court's order on the issue of 3rd Party proceedings as it deems fit.
 - d. This court does make such further orders as it may deem fit.
 - e. The Appellant be awarded the costs of this appeal.



4. This being the first appellate court, I am required under Section 78 of the *Civil Procedure Act* and as was espoused in the case of *Sielle v Associated Motor Boat Co. Ltd* [1969] E.A. 123 to reassess, reanalyze and reevaluate the evidence adduced in the Magistrate’s Court and draw my conclusions while bearing in mind that I did not see or hear the witnesses when they testified.
5. In *Sielle*, Sir Clement De Lestang observed that:

“This Court must consider the evidence, evaluate it itself and draw its own conclusions, though in doing so it should always bear in mind that it neither heard witnesses and should make due allowance in this respect.

However, this Court is not bound necessarily to follow the trial judge’s findings of fact if it appears either that he had clearly failed on some point to take account of particular circumstances or probabilities, materially to estimate the evidence or if the impression based on the demeanour of a witness is inconsistent with the evidence in the case generally.”
6. The matter before the lower court was commenced by the Respondent by way of the amended plaint dated 14th March, 2021 and filed on 22nd March, 2021.
7. The reliefs that the Respondent sought in the suit were as follows:
 - a. That a declaration that the Defendant is bound in law to settle the decretal sum, costs and interest in Machakos CMCC 313 of 2018 as well as any other matters where the Plaintiff may have been sued, arising out of the same cause of action.
 - b. That a stay of execution of the judgement and decree as against the Plaintiff to issue in Machakos CMCC No. 313 of 2018, as well as in any other matters where the Plaintiff may have been sued, arising out of the same cause of action.
 - c. Costs of the suit and interest.
 - d. Any other or further relief as this Honourable Court may deem fit and just to grant.
8. The Respondent pleaded that the suit was necessitated by the Appellant’s refusal and/or neglect meet its statutory obligations under the Insurance (Motor Vehicle Third Party Risks) Act, Cap 405 Laws of Kenya, by not satisfying and/or settling the decretal sum in Machakos CMCC No. 313 of 2018 plus costs and interest.
9. The Appellant (the Defendant in the lower court) filed a statement of defence dated 1st April, 2021 in which it denied all liability to the Respondent’s claim and sought that the suit be dismissed with costs.
10. The Interested Party Kavutha Kilului was joined in the suit before the lower court on the basis of the reason that she was the Plaintiff in Machakos CMCC No. 313 of 2018, which she filed as the Administratrix of the Estate Stephen Munyao (Deceased) against the Respondent
11. On her part, the Interested Party resisted the suit by filing a statement of defence 6th May, 2021 and denied that the Appellant had any tenable cause of action against her.
12. The evidence in the lower court record was that on 12th September, 2015, one Stephen Munyao (hereinafter referred to as “the Deceased”) was involved in a road traffic accident following which he met his demise.
13. The Interested Party herein subsequently took out a limited grant of letters of administration ad litem and on the strength of the same instituted Machakos CMCC No. 313 of 2015 (hereinafter referred to



as “the primary suit”), for and on behalf of the Estate of the Deceased, a tortious liability claim seeking to recover damages under the *Law Reform Act* and the *Fatal Accidents Act*, special damages, costs and interest against the Respondent herein who was the Defendant in the said suit.

14. In a judgement delivered on 21st May, 2020, the trial court in the primary suit determined the said suit in favour of the Interested Party whereby the Respondent was condemned to pay a sum amounting to Ksh.2,937,374/- under the various heads of damages together with costs and interest.
15. The execution by the Interested Party of the said judgement against the Respondent prompted the latter to institute Machakos CMCC No. E137 of 2021 against the Appellant seeking for the reliefs that I have reproduced above, with the Interested Party being brought on board in that capacity, having been the Plaintiff in primary suit.
16. The Respondent testified before the trial court and restated the history of the matter. She adopted the contents of her witness statement dated 10th March, 2021. In precis, the Respondent stated in her statement that at the times material to the two suits before the lower courts, she was the beneficial owner of motor vehicle registration number KBY 552L which was duly insured by the Appellant pursuant to the provisions of the Insurance (Motor Vehicle Third Party Risks) Act, Cap 405 Laws of Kenya (hereinafter referred to as “the Act”).
17. The Respondent further stated in her statement that following a road traffic accident that occurred on 24th May, 2018, she was sued in the primary suit and also in Machakos CMCC No. 661 of 2016 where the Plaintiffs in the two suits sought to be compensated for the injuries that resulted from the accident.
18. The Respondent forwarded the summonses to enter appearance and complaints to the Appellants through her agents – Hook Insurance Agency – and the Appellants appointed a firm of Advocates to represent the Respondent in Machakos CMCC No. 661 of 2016, which claim was settled after entry of judgement.
19. The Respondent however later learnt that the Appellant did not appoint Advocates to represent her in the primary suit (Machakos CMCC No. 313 of 2015) and judgement therein was entered against her on 21st May, 2020 for Ksh.2,937,374/- plus costs and interest, which the Respondent stated the Appellant refused to settle, necessitating the filing of the suit from which this appeal emanates (Machakos CMCC No. E137 of 2021).
20. The Respondent stated that the Interested Party instituted execution proceedings against her in the primary suit and proceeded to attach, remove and advertise her property for sale towards satisfaction of the judgement.
21. The Respondent urged that the Appellant was pursuant to Section 4(b) and 10(1) of the Act under a statutory duty to satisfy the judgement and subsequent decree issued against the Respondent in the primary suit.
22. The Respondent produced the following documents before the trial court in support of her case: Copy of the logbook for motor vehicle registration number KBY 552L. Copies of the plaint and defence in the primary suit. Copy of a letter forwarding summons to the Appellant. Copy of the judgement in the primary suit. Copy of the decree and certificate of costs issued in the primary suit. A letter notifying the Respondent of the judgement in the primary suit. Police abstract issued pursuant to the accident that occurred on 12th September, 2015. Receipts for insurance premiums and excess payments made to the Appellant. Proclamation notices and warrants issued in execution proceedings against the Respondent in the primary suit. Advertisement notices issued against the Respondent in execution of the decree issued in the primary suit.



23. Upon being cross-examined by learned Counsel for the Appellant, the Respondent, on being shown documents stated that the same were as follows: A limited grant ad litem issued jointly to one Juliana Wayua Mutisya and one Kavutha Kilului (the Interested Party) in respect of the Estate of Stephen Munyao (Deceased). A letter from Gakoi Maina & Co. Advocates on behalf of Juliana Wayua Mutisya to the Appellant forwarding a certificate of death, limited grant ad litem, police abstract and other claim supporting documents. A letter from Gakoi Maina & Co. Advocates intimating to settle the claim at Ksh. 1,000,000/-. Discharge voucher for Ksh. 1,000,000/- signed by Gakoi Maina Advocate and Juliana Wayua Mutisya in respect of the claim on behalf of the Estate of Stephen Munyao (Deceased).
24. The Respondent stated that from the Appellant's documents, it was apparent that there were two different sets of limited grants ad litem; one jointly taken out by Juliana Wayua Mutisya and the Interested Party and the other taken out solely by the Interested Party and that two claims were lodged with the Appellant, both pursuing compensation in respect of the same cause of action on behalf and of the same Deceased.
25. Upon being cross-examined by Counsel for the Interested Party, the Respondent stated that she blamed the Appellant because despite forwarding summons to enter appearance and the plaint in the primary suit, the Appellant did not take any action and did not inform the Respondent that the claim had been paid and/or settled through the law firm of Gakoi Maina & Co. Advocates. She stated that she took the initiative of instructing an Advocate when she learnt that the Appellant had failed to appoint one to represent her in the primary suit.
26. The Respondent called Anne Wanjiku Nduati as her witness. The witness adopted the contents of her statement recorded on 16th August, 2021. The witness told the court that she was an employee of Hook Insurance Agency and that on 11th April, 2019, acting as the Respondent's insurance agent, she received from the Respondent summons and plaint issued in the primary suit and forwarded the same to the Appellant, which the Appellant received on 11th April, 2019.
27. The witness stated that the Respondent's motor vehicle registration number KBY 552L which was involved in an accident on 12th September, 2018 that gave rise to the primary suit was insured by the Appellant through Hook Insurance Agency, at the time of the accident. She stated that the Appellant did not appoint an advocate to represent the Respondent, contrary to what was expected under the insurance contract.
28. On being cross examined by Counsel for the Interested Party, the witness stated that the Appellant did not inform Hook Insurance Agency that the claim in respect of the Deceased had been settled. She stated that Juliana Wayua Mutisya was not a party in the primary suit.
29. The Appellant called Pauline Nyambura Waruhiu, its head of claims as its witness. The witness adopted the contents of her witness statement dated 27th August, 2021 as her evidence in chief.
30. The witness told the court that following the demise of the Deceased, the matter was reported to the Appellant as a claim and not as a suit and that the same was promptly settled out of court between the Appellant and the claimant, one Juliana Wayua Mutisya for and on behalf of the Estate of the Deceased, who was represented by Gakoi Maina & Co. Advocates. That the Appellant was not aware of the primary suit as the filing of the same was not reported until the Respondent informed the Appellant that execution proceedings had commenced pursuant to a decree issued in the primary suit.
31. The Appellant's witness told the trial court that her employer learnt that the Respondent had engaged another firm of Advocates to represent her in the primary suit without the knowledge and/or authority of the Appellant.



32. The Appellant's witness produced the following documents in support of the Appellant's case: Copy of limited grant of letters of administration ad litem issued on 27th May, 2016 in respect of the Estate of the Deceased. Letter dated 8th March, 2016 by the firm of Gakoi Maina & Co. Advocates addressed to the Respondent. Notice of intention to sue/Statutory Notice issued under Cap 405 dated 25th April, 2016 issued to the Appellant by the firm of Gakoi Maina & Co. Advocates. Letter dated 12th July, 2016 by the firm of Gakoi Maina & Co. Advocates addressed to the Appellant. Letter dated 23rd November, 2016 by the firm of Gakoi Maina & Co. Advocates addressed to the Appellant. Discharge voucher for Ksh. 1,000,000/- executed by Juliana Wayua Mutisya. Copy of instruction note.
33. The Appellant's witness was cross-examined by learned Counsel for the Respondent and told the trial court that the Respondent had a valid insurance policy and that the Appellant was notified of the accident, which resulted in numerous claims.
34. The Appellant confirmed that the letter from Hook Insurance Agency that forwarded the summons and plaint that were served upon the Respondent had the Appellant's receiving stamp. She further admitted that the Appellant did not act on the summons and even the statutory notice after receiving the same, stating that the claim had been settled through Maina Gakoi & Co. Advocates. She stated that she had nothing to show that the Respondent had been informed of the settlement.
35. Upon being cross-examined by the Interested Party, the witness stated that the discharge voucher was not signed by the Interested Party despite the fact that the grant of letters of administration ad litem that Juliana Wayua Mutisya had submitted bore the name of the Interested Party as a joint administratrix.
36. Kavutha Kilului, the Interested Party herein testified and adopted the contents of her undated witness statement that was filed in court on 2nd June, 2021 as her evidence in chief.
37. The witness stated that the Deceased was her husband and Juliana Wayua Mutisya her mother in law. That the latter applied for a grant of letters of administration ad litem in respect of the Deceased's Estate without the knowledge of the Interested Party, which was issued in the joint names of Juliana Wayua Mutisya and the Interested Party. The Interested Party thereafter challenged the grant in court leading to its revocation, following which a grant was then issued in her sole name, which she used to file the primary suit.
38. The Interested Party produced the following documents to support her case: Statutory Notice under Cap. 405 addressed to the Appellant. Demand letter. Letter forwarding the Statutory Notice. Application for revocation of grant. Ruling on the application for revocation of grant. Order of the court on revocation. Discharge voucher. Letters addressed to the Appellant in respect of the primary suit. Letters to Gakoi Maina & Co. Advocates. Letters to Nyawara & Co. Advocates. Letters between Nyawara & Co. Advocates and Mulu & Co. Advocates.
39. The Interested Party was cross examined by the Respondent and stated that she never instructed Maina Gakoi & Co. Advocates to follow up the claim on her behalf.
40. From the evidence before the trial court, the following are undisputed facts: That the Respondent's motor vehicle was insured by the Appellant and that the policy of insurance was valid at the time of the accident. That the Appellant was by virtue of the policy of insurance under a statutory duty and/or obligation to satisfy judgements entered against the Respondent falling under Section 10 of the Act. That the decree issued in the primary suit remains unsatisfied. That the Respondent's agent, Hook Insurance Agency forwarded to the Appellant the plaint and summons to enter appearance that were issued in the primary suit which the Appellant received on 11th April, 2019. That the Appellant did not instruct an Advocate to represent the Respondent in the primary suit. That a claim was lodged by one



Juliana Wayua Mutisya through the firm of Maina Gakoi & Co. Advocates, purportedly as one of the Administratrices of the Estate of the Deceased and that the said claim was settled out of court. That the Respondent was not notified by the Appellant of the settlement with the firm of Maina Gakoi & Co. Advocates, for and on behalf of Juliana Wayua Mutisya.

41. Having perused the Memorandum and Records of Appeal, the record of the lower court and the submissions filed by the parties, the issues for determination are:
 - a. Whether the trial court fell into error by reaching a finding that the Appellant did not commence 3rd Party proceedings against Julia Wayua Mutisya.
 - b. Whether the Appellant was under a statutory duty and/or obligation under Section 10 of the Act to satisfy the decree issued in the primary suit, having reached a settlement on a claim lodged by Juliana Wayua Mutisya on the strength of the letters of Administration ad litem issued jointly to Juliana Wayua Mutisya and the Interested Party as Administratrices of the Estate of the Deceased.
42. I will first address the issue raised by the Appellant that the learned trial Magistrate fell into error in reaching the finding that the 3rd Party proceedings were never commenced.
43. On this issue, it is instructive from the record of the lower court that a 3rd Party Notice was issued on the application by the Appellant whereby Juliana Wayua Mutisya was joined in the proceedings as a 3rd Party.
44. The Appellant states in its submissions that the 3rd Party Notice was duly served and a Request for Judgement against the 3rd Party subsequently lodged. The Appellant complains that the said Request for Judgement was never acted upon by the court.
45. The record of the trial court bears it that the matter proceeded to full hearing and the witnesses of the various parties testified on 2nd November, 2021 and 8th December, 2021. On none of those occasions did the Appellant inform the court that it had requested for judgement against the 3rd Party and that the same had not been acted upon.
46. As a matter of fact, the issue of the Request for Judgement against the 3rd Party or even liability against the 3rd Party was never addressed by the Appellant during the course of the trial or even in the submissions that were filed before the trial court. The issue first came up on appeal.
47. It is curious that despite the Appellant having sought leave to join the said Juliana Wayua Mutisya as a 3rd Party in the proceedings in the trial court, it remained silent on the issue throughout the trial. In my view, the Appellant was happy and content to proceed with the matter without pursuing the 3rd Party and cannot be heard to blame the trial court at this appellate stage and argue that it requested for judgement and the request was not acted upon.
48. In the circumstances, I cannot fault the learned trial Magistrate in the manner in which he proceeded with the matter and his findings, save just to add that he should have stated that the 3rd Party proceedings were never pursued instead of stating that the same were never commenced.
49. On the second issue for determination, Section 10(1) of the Act obligates an insurer to satisfy judgments and decrees that may be entered/issued against persons who are insured by an insurer. Let us read the said provision:



- (1). If, after a policy of insurance has been effected, judgment in respect of any such liability as is required to be covered by a policy under paragraph (b) of section 5 (being a liability covered by the terms of the policy) is obtained against any person insured by the policy, then notwithstanding that the insurer may be entitled to avoid or cancel, or may have avoided or cancelled, the policy, the insurer shall, subject to the provisions of this section, pay to the persons entitled to the benefit of the judgment any sum payable thereunder in respect of the liability, including any amount payable in respect of costs and any sum payable in respect of interest on that sum by virtue of any enactment relating to interest on judgments.

Emphasis laid).

50. My understanding of the above provision is that an insurer is under an obligation to satisfy a judgement and decree entered against its insured subject to the conditions set out in Section 10(2) of the Act, which provides exceptions as follows:

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- (2) No sum shall be payable by an insurer under the foregoing provisions of this section—
 - (a) in respect of any judgment, unless before or within fourteen days after the commencement of the proceedings in which the judgment was given, the insurer had notice of the bringing of the proceedings; or
 - (b) in respect of any judgment, so long as execution thereon is stayed pending an appeal; or
 - (c) in connexion with any liability if, before the happening of the event which was the cause of the death or bodily injury giving rise to the liability, the policy was cancelled by mutual consent or by virtue of any provision contained therein, and either—
 - (i) before the happening of the event the certificate was surrendered to the insurer, or
 - (ii) the person to whom the certificate was issued made a statutory declaration stating that the certificate had been lost or destroyed; or
 - (iii) after the happening of the event, but before the expiration of a period of fourteen days from the taking effect of the cancellation of the policy, the certificate was surrendered to the insurer, or the person to whom the certificate was issued made such a statutory declaration as aforesaid; or either before or after the happening of the event, but within a period of twenty-eight days from the taking effect of the cancellation of the policy, the insurer has notified the Registrar of Motor Vehicles and the Commissioner of Police in writing of the failure to surrender the certificate.

51. It is not in dispute that the policy of insurance that was issued to the Respondent insured third parties in respect of liability which could be incurred by the Respondent in respect of the death of, or bodily injury to, such third parties caused by or arising out of the use of the insured vehicle on a road. No doubt, the demise of the Deceased was one such peril covered by the policy.



52. The Appellant did not allege or state that any of the exceptions under Section 10(2) of the Act came into existence. That then means that its statutory obligation to satisfy the decree in the primary suit subsisted.
53. The Appellant told the court through its witness that the reason as to why it did not satisfy the decree in the primary suit was because the claim relating to the accident in which the Deceased met his demise had been settled out of court between Juliana Wayua Mutisya and the Appellant, on the basis of the grant that was presented by Juliana Wayua Mutisya's Advocates, which had been issued jointly to the said claimant and the Interested Party herein.
54. The Appellant's witness was clear in her evidence that despite the said grant having the names of two people as Administratrices of the Deceased's Estate, the Appellant did not involve the Interested Party as joint Administratrix and that only Juliana Wayua Mutisya executed the payment or discharge voucher. No reasons were given as to why the Interested Party was left out, which was highly irregular. Clearly, there was lack of due diligence on the part of the Appellant.
55. As stated above, the Appellant admitted that the Respondent forwarded the summons and plaint issued in the primary suit as was required. No reason was given by the Appellant as to why it did not instruct an Advocate to defend the suit, as was the requirement under the policy. Even if one took the argument that the claim had been settled, the Appellant was under a contractual obligation to instruct an Advocate to defend the primary suit on that basis. This fault on the part of the Appellant is compounded further by the fact that the Appellant did not at any time inform the Respondent that the matter had been settled with Juliana Wayua Mutisya.
56. It is therefore clear that the Appellant not only irregularly purported to settle the claim but also kept the Respondent in the dark of the transactions with Juliana Wayua Mutisya. The failure by the Appellant to inform the Respondent and to instruct an Advocate to represent the Respondent in the primary suit clearly went against the insurance contract and policy.
57. As we have seen, Section 10(1) of the Act provides that notwithstanding that the insurer may be entitled to avoid or cancel, or may have avoided or cancelled, the policy, the insurer shall, subject to the provisions of this section, pay to the persons entitled to the benefit of the judgment any sum payable thereunder in respect of the liability, including any amount payable in respect of costs and any sum payable in respect of interest on that sum by virtue of any enactment relating to interest on judgments.
58. In the circumstances, the Appellant cannot avoid its statutory duty to satisfy the decree issued in the primary suit. The Respondent cannot be blamed for the lapses resulting in the irregular settlement of the claim to Juliana Wayua Mutisya. The Appellant bears the entire fault for failing to keep the Respondent in the picture of the settlement with Juliana Wayua Mutisya and her Advocate and for proceeding to purport to settle the same with only one Administratrix when the grant submitted to the Appellant had two Administratrices. The Interested party ought to have been a party in the settlement.
59. In my considered view, it is up to the Appellant, in the premises, and not the Respondent to follow up on the irregular payment made to Juliana Wayua Mutisya. It remains the duty of the Appellant to satisfy the decree issued in the primary suit, which remains unsatisfied.
60. For the reasons stated above, I cannot fault the learned trial Magistrate for the findings that he reached. I then reach the result that the appeal before me is devoid of merit. I proceed to dismiss it.
61. Section 27 of the *Civil Procedure Act*, Cap 21 Laws of Kenya dictates that costs ought to follow the event. Consequently, the Appellant shall bear the Respondents costs of the appeal.

DELIVERED (VIRTUALLY), DATED & SIGNED THIS 10TH DAY OF DECEMBER, 2024.



JOE M. OMIDO

JUDGE

For The Appellant: Mr. Awino For Mr. Kahiti.

For The Respondent: Mr. Mauncho For Ms. Gichuki.

For The Interested Party: No Appearance.

COURT ASSISTANT: Ms. Njoroge.

JOE M. OMIDO

JUDGE

Mr. Awino: I pray for 30 days stay of execution.

Mr. Mauncho: No objection.

Court: There shall be stay of execution for 30 days.

JOE M. OMIDO

JUDGE

