



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**CIVIL APPEAL NO. E171 OF 2020**

**THOMAS MUTALA KINGOO ..... APPELLANT**

**VERSUS**

**PRISCILLA MUMO NDUNDA ..... RESPONDENT**

**RULING**

This is an application for stay of execution of the lower court judgment. The respondent has a judgment in her favour against the applicant. This judgment was delivered on 7<sup>th</sup> August, 2020. The application was filed on 4<sup>th</sup> September and no inordinate delay has been alleged. The memorandum of appeal dated 14<sup>th</sup> August, 2020 was filed on 17<sup>th</sup> August, 2020.

The application is opposed and there are grounds of opposition filed on behalf of the respondent. The intended appeal is against quantum of damages. The lower court awarded Kshs. 400,000/= general damages less 10 % liability and Kshs. 3550/= special damages plus costs and interest.

I have looked at the submissions by both parties. If the appeal succeeds the award will be reduced but not entirely struck out. The order that commends itself is that there shall be a stay of execution provided that the applicant shall pay the respondent Kshs. 200,000/= and the balance of the decretal sum shall be deposited in an interest earning account in the names of the advocates appearing for the parties within 30 days from the date of this ruling. The costs shall abide by the decision of the appeal.

***Dated, signed and delivered at Nairobi this 4<sup>th</sup> day of March, 2021.***

**A. MBOGHOLI MSAGHA**

**JUDGE**