



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MERU

MISC. CIVIL APPLICATION NO. 64 OF 2019

SALAD HUKA ABDI.....APPLICANT

VERSUS

EQUITY BANK.....RESPONDENT

RULING

1. The Applicant Salad Huka Abdi brought notice of Motion Application dated 12.7.2019 under Certificate of Urgency seeking that he be granted leave to appeal out of time and also that the court issues stay of execution orders against the judgment/decree and all consequently orders in Isiolo CMCC No. 75 of 2016 delivered on 7.5.2019 pending the hearing and determination of the application herein and pending the hearing and determination of the intended appeal. The applicant also sought for costs of the application
2. The application was based on the grounds on the face of the application and on the supporting affidavit sworn on 12th July 2019 by Salad Huda Abdi.
3. The applicant in the grounds on the application said that Judgment was delivered on 7th May 2019 but there was a delay in obtaining proceedings and therefore delay in lodging appeal was purely inadvertent and excusable. He said the delay was not inordinate.
4. In the supporting affidavit the applicant averred that he had a good appeal with high chances of success.
5. The application was canvassed by way of written submissions.
6. The application and submissions by applicant have been considered and this court found nothing to support the applicants ground that the proceedings were delayed and thus he didn't file appeal in time. He didn't annex any letter applying for proceedings neither did he annex a certificate from the trial magistrate for delay in supplying the proceedings from the time judgment was delivered upto the time that he filed the application herein.
7. Secondly, the judgment of the court was to the effect both the applicants claim and the Respondents counterclaim had not succeeded and no orders for costs were made. It has not been shown that the Respondent intended to execute any decree of the court as there was none to be executed.
8. This court therefore finds that the application has no merit and it is dismissed entirely with costs to the Respondent.

HON A. ONG'INJO

JUDGE

RULING DELIVERED, DATED AND SIGNED IN COURT ON 6TH DAY OF FEBRUARY 2020.

In the presence of :

C/A: Kinoti :-

Applicant: - Mr Karanja Advocate holding brief for Kiogora M. for Applicant.

Respondent: - R.K. Gitonga Advocate for Respondent – N/A

HON A. ONG'INJO

JUDGE

Court:- Certified copies of ruling to be supplied upon payment of copying charges.

HON A. ONG'INJO

JUDGE