



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MAKUENI

CIVIL CASE NO. 13 OF 2020

WANYONYI DANSON LUKIYA *alias*

DANSON WANYONYI.....APPELLANT/APPLICANT

-VERSUS-

ONESMUS SILLAH KIKUVI

ANASTACIA WAYUA SILA

(Suing as the legal representative

of the estate of BONIFACE MUINDE SILA.....RESPONDENT

RULING

1. The appeal herein arises from the Judgment in Tawa SRM's Civil Case No. 128 of 2019 where the Respondent was awarded Kshs.2,956,867/= with interest and costs of the suit.
2. The application dated 12th March 2020 seeks stay of execution pending the hearing of the appeal.
3. The Applicant deposited the sum of Kshs.2,956,867/= in court on 15th May 2020 following this court's orders of 16th March 2020.
4. The documents before this court show that liability had been consented to by the parties at 75:25 in favour of the Respondents. It follows that the Respondents are entitled to payment of damages.
5. It is only the amount that is contested.
6. This court had requested the parties to agree on how much of the decretal sum would be paid to the Respondents pending the hearing of the appeal as a condition of the grant of the stay of execution. The Respondent's counsel sent a proposal to the Applicant but the latter never responded. *(The email was copied to the court).*
7. The matter before the lower court involved claims in respect of the estate of a person who died in a road accident.
8. I have perused and considered the proposal by the Respondents and I find it to be fair.
9. I therefore allow prayer **No. 3** of that application dated **12th March 2020** on condition that:

i. The Respondents are immediately paid Kshs.1,600,000/= through their counsel out of the amount deposited in court.

ii. The appeal to be expedited

Costs in cause

Delivered, signed & dated this 6th day of October 2020, in open court at Makueni.

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H. I. Ong'udi

Judge

Ruling to be sent to both counsel electronically.