



**REPUBLIC OF KENYA**

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

**CIVIL DIVISION**

**HIGH COURT CIVIL APPEAL CASE NO. 254 OF 2017**

**WOODVENTURE (K) LIMITED.....APPLICANT**

**VERSUS**

**TECHNICAL STUDY TOURS LIMITED.....1<sup>ST</sup> RESPONDENT**

**SIMON KANANI SAGANA.....2<sup>ND</sup> RESPONDENT**

**AHMED SAID SALAM.....3<sup>RD</sup> RESPONDENT**

**RULING**

1. The application dated 6<sup>th</sup> July, 2017 seeks orders that this Honourable Court be pleased to order that the decretal sum of Kshs.537,852/= be returned by the 1<sup>st</sup> and 2<sup>nd</sup> Respondents and the same be deposited into a fixed deposit account in the joint names of the Appellant's and the 1<sup>st</sup> and 2<sup>nd</sup> Respondents' advocates pending the hearing and determination of this Appeal. Secondly that the Honourable Court be pleased to issue an order of stay of execution in respect of the balance of the decretal sum, interests and costs pending the hearing and determination of this Appeal. The third prayer is that the Honourable Court be pleased to issue an order for the balance of the decretal sum, interests and costs to be deposited in an interest earning account in the joint account of the Appellant and the 1<sup>st</sup> and 2<sup>nd</sup> Respondent's Advocates.

2. It is stated in the affidavit in support that judgment of Ksh.576,920/= was entered in the Lower Court against the Applicants on 2<sup>nd</sup> October, 2015. That 75% being Kshs.532,852/= of the decretal sum was deposited in court pursuant to the orders issued by the Lower Court but that the same has been released to the 1<sup>st</sup> and 2<sup>nd</sup> Respondents . The Applicant is apprehensive that the appeal may be rendered nugatory as the 1<sup>st</sup> and 2<sup>nd</sup> Respondent may not be in a position to refund the decretal sum.

3. The application is not opposed. No papers were filed in opposition to the same.

4. During the hearing of the application the 1<sup>st</sup> and 2<sup>nd</sup> Respondents' counsel confirmed that the application is not opposed. Consequently, I allow the application as prayed with costs in cause.

Dated, signed and delivered at Nairobi this 16<sup>th</sup> day of May, 2018

**B. THURANIRA JADEN**

**JUDGE**