

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

CIVIL DIVISION

HIGH COURT CIVIL APPEAL NO. 392 OF 2017

APA INSURANCE COMPANY LTD.....APPLICANT

VERSUS

PATRICK PETER KITHIKI.....RESPONDENT

RULING

1. The application dated 19th July, 2018 seeks orders that pending hearing and determination of the Applicant's Appeal, this honourable court be pleased to order stay of execution of the Judgment delivered by the Hon. Peter Muholi on 12th July, 2017 and any Decree arising therefrom, as against the Defendant/Applicant.
2. The application is based on the grounds stated therein and affidavit in support.
3. The application was opposed as per the replying affidavit.
4. During the hearing of the application, the counsels for the respective parties narrowed down the issues to only the question of the security to be deposited for the due performance of the decree.
5. I have considered the affidavit evidence. The Applicant's are willing to deposit the decretal sum but dispute the interest payable which is calculated at 12% from the year 2014 and comes to Ksh.186,457/=. According to the Appellant, the interest awarded in the judgment of the lower court is from the date of judgment. For the purpose of the deposit payable, I will reduce the amount by 50% which comes to Ksh. 93,278/=. The principal sum is Ksh.371,424/= and the costs were assessed at Ksh.98,595. The total comes to Ksh.563,297/=.
6. Consequently, the application is allowed on condition that the sum of Ksh.563,297/= be deposited in a joint interest earning bank account of the counsels for the parties herein or in court within 30 days from date hereof.

Date, signed and delivered at Nairobi this 15th day of Oct., 2018

B. THURANIRA JADEN

JUDGE