



**REPUBLIC OF KENYA**

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

**MISC. CIVIL APPLICATION NO. 161 OF 2016**

EPHANTUS NYAGA NGOROI..... APPLICANT

*VERSUS*

NDWIGA STEPHANO.....RESPONDENT

**RULING**

1. This is a ruling on the application dated 19/09/2016 seeking for extension of time to file an appeal against the judgment in Embu CMCC No. 45 of 2007. It also seeks for stay for execution of the judgment and for an inhibition to be issued against the title for Kagaari/Kanja/787. It is supported by the affidavit of Ephantus Nyaga Ngoroi, the applicant.
2. The application was opposed by the respondent in his replying affidavit sworn on 25/10/2016.
3. Both parties agreed to use their affidavits as basis for preparing this ruling as opposed to arguing the application orally or by way of written submissions.
4. Prayer 2 was allowed by the consent of the parties on 3/11/2016. The appeal was to be filed within seven (7) days. The parties now focus on prayers 3 and 4.
5. As for stay of execution, the applicant is apprehensive that the respondent may move to execute for the bill of costs which is likely to result in the applicant suffering irreparable loss. The applicant has already paid his money to the respondent.
6. The appeal may have been filed by now after the consent was recorded by the parties. It is therefore appropriate that the subject matter be preserved by way of an inhibition. The execution of the judgment shall be stayed.
7. I find the application merited and it is hereby allowed in terms of prayers 4 and 5.
8. Each party to meet their own costs of this application.

**DATED, DELIVERED AND SIGNED THIS 22ND DAY OF FEBRUARY, 2017.**

**F. MUCHEMI**

**JUDGE**

**In the presence of:-**

**Mr. Ithiga for Applicant**

**Respondent present in person**