



**REPUBLIC OF KENYA**

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

**SUCCESSION CAUSE NO. 768 OF 2008**

**IN THE MATTER OF THE ESTATE OF GEOFFREY MUCHIRI KAMAU (DECEASED)**

**RULING**

1. The application dated 9<sup>th</sup> June 2016 seeks leave to appeal against the judgment delivered herein on 27<sup>th</sup> May 2016 and stay of the order allowing liberty to the respondent to apply for confirmation of grant pending appeal.
2. The grounds upon which the orders are sought are set out on the face of the application and in the affidavit sworn in support. Principally, the applicant is aggrieved by the judgment and would like to appeal against it at the Court of Appeal. It is argued that leave of this court is mandatory according to the decision of the Court of Appeal in *Mary Wangui Karanja vs. James Kioi* CA No. 69 of 2014.
3. The respondent has objected to the application through grounds of opposition dated 13<sup>th</sup> July 2016, and filed herein on 14<sup>th</sup> July 2016. She argues that the applicant has not demonstrated that she has substantial grounds of appeal, has failed to show that she would suffer substantial loss, among others.
4. The application was urged orally on 15<sup>th</sup> February 2017. Counsel for both sides breathed life to the averments made in their respective documents. I have taken note of the arguments made, inclusive of the authorities cited.
5. The applicant is entitled to challenge decisions of this court on appeal. As there is no automatic right of appeal, it is imperative that leave be sought. She has identified the questions she would like to place before the appellate court, I think they are arguable.
6. Consequently, I shall allow the application dated 9<sup>th</sup> June 2016 in the terms proposed. Costs shall be in the cause. Leave to appeal and stay of the liberty to apply for confirmation of grant shall be for thirty (30) days. It is so ordered.

**DATED, SIGNED and DELIVERED at NAIROBI this 2<sup>ND</sup> DAY OF JUNE, 2017.**

**W. MUSYOKA**

**JUDGE**