

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MERU
CIVIL APPEAL NO. 13 OF 2015

JOHN MAINA THIONGO.....APPELLANT

VERSUS

JOHN KARUNTIMI KIAMBATI.....RESPONDENT

RULING

This application is dated 12th May, 2015. It seeks the following orders:

1. ***THAT this honourable court do substitute the order to deposit Kshs. 2,000,000/= with an order for stay of execution on condition that this appeal is finalized within a given period of time.***
2. ***THAT in the alternative, this honourable court do make an order of stay of execution pending the hearing and final disposal of the proposed appeal to the Kenya Court of Appeal.***
3. ***THAT this honourable court do make any other or other orders as would meet the interest of justice in this appeal.***

It has the following grounds:

1. ***THAT the Appellant will suffer irreparable damages if eviction is carried out.***
2. ***THAT the Appellant is unable to raise the Shs.2,000,000/= required as a condition for grant of stay orders.***
3. ***THAT the respondent will not be unduly prejudiced if the orders sought are granted.***

I gave a ruling in an application dated 24.3.2015 where the applicant sought stay of execution and decree of the lower court dated 6.3.2015. During the prosecution of that application the applicant's advocate intimated that the value of the applicant's claim was Kshs.20,000,000/=. My ruling allowed stay of execution subject to the applicant depositing a sum of Kshs.2,000,000/= as deposit for security within 14 days of 14.4.2015, when I delivered my ruling. The stipulated period ended around 28th of April, 2015. Over 2 weeks or thereabouts after the lapse of the stipulated period, the applicant has filed this application.

I have carefully examined the supporting affidavit and the grounds on the face of the application. They do not persuade this court to allow the application. In the circumstances, it is dismissed with no order as to costs.

It is so ordered.

Delivered in Open Court at Meru this 13th day of May, 2015 in the presence of:

Cc. Daniel

Mutunga h/b B. G Kariuki for the Applicant

P. M. NJORGE

JUDGE