

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

MISCELLANEOUS CIVIL APPLICATION NO. 354 OF 2015

DANIEL K. GITAU T/A CAMP DAVID PLAZAAPPLICANT

VERSUS

LUCY WANGARI MAINARESPONDENT

COURT RULING

The application by the applicant amended on 26th August 2015 is not opposed. It seeks for stay of execution of decree in Thika CM CC 1037 of 2010 pending hearing and determination of this application and pending hearing and determination of the intending appeal.

The applicant also seeks leave of this court to be granted extending time within which an appeal ought to have been filed from the judgment and decree of the lower court passed on 3rd July, 2015.

The applicant relies on the supporting affidavit sworn by Daniel K. Gitau sworn on 11th August 2015.

On 12th August 2015 Honourable Onyancha J granted interim stay conditional upon the whole decretal sum being deposited on court.

The said sums have since been deposited on court vide receipt No. 0363093. The amount is 1,130,000/-.

For reasons that the application is not opposed, I have no reason why the same cannot be granted to serve the interests of justice and accord the applicant an opportunity to ventilate his grievances on appeal, while preserving the subject matter of the appeal so that should the intended appeal be successful, it shall not be rendered nugatory.

Accordingly, I grant the applicant leave to file an appeal out of time from the judgment and decree of Thika CM CC 1037/2010 delivered on 3rd July 2015. The said appeal shall be filed and served within 15 days from the date hereof.

I further grant stay of execution of decree in the same suit until the said appeal if filed is heard and determined.

Costs of this application shall be in the intended appeal.

Orders accordingly.

R.E. ABURILI

JUDGE

14/10/2015