

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

MISCELLANEOUS CIVIL APPLICATION NO. 444 OF 2015

NANCY KAHOYA AMADIVAAPPLICANT

VERSUS

EXPERT CREDIT LIMITED.....1ST RESPONDENT

JOHN MUTITU NGACHA.....2ND RESPONDENT

COURT RULING

By the applicant's counsel's own admission, there is every indication that there is a parent file for this matter wherein an appeal before the Court of Appeal was delivered on 2nd October 2015. This court has no advantage of appreciating what transpired in the matter. By instituting fresh proceedings in the Miscellaneous Application matter, without seeking to reconstruct a skeleton file and availing all the necessary documents from the parent file which is not said to be lost is in my view an abuse of the court process and an attempt to steal a march on the adverse party by withholding from this court material facts to the dispute and trying to relitigate the dispute afresh.

The applicant is seeking for stay of eviction from property known as LR 29/8343/107 and for release of monies deposited in court which are serious prayers that cannot be granted in a miscellaneous file yet the proceedings for which the above orders are anchored are housed in a different file.

In the premise, I strike out the application herein as being incompetent and an abuse of the court process and order that the applicant bears the costs of this application to the Respondents

Orders accordingly.

R.E. ABURILI

JUDGE

19/10/2015