

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CIVIL DIVISION

CIVIL APPEAL NO 722 OF 2005

HON NICK SALAT.....APPELLANT

VERSUS

SIMON LEDAMA KIMUNAIRESPONDENT

RULING

1. On 5th October 2005 the Appellant herein was granted stay of execution of decree pending disposal of the appeal upon the condition that he deposits the balance of the decretal sum (KShs 250,025/00) in an interest earning account in the joint names of the parties' advocates. Such bank account, **No 011300306924** was opened with the *Co-operative Bank of Kenya* and the balance of the decretal sum deposited into it.
2. On 4th November 2011 this appeal was dismissed for want of prosecution. There is no application or appeal pending in respect of that dismissal.
3. The Respondent has now applied by **notice of motion dated 6th May 2014** for release of the deposited funds to him through his advocates. The application is not opposed, obviously for good reason. The appeal having been disposed of there is no reason why the Respondent should not have access to the remaining fruits of his decree.
4. I will grant the application as prayed, but with no order to costs. It is so ordered.

DATED AND SIGNED AT NAIROBI THIS 2ND DAY OF JULY 2014

H.P.G. WAWERU

JUDGE

DELIVERED THIS 4TH DAY OF JULY 2014