



REPUBLIC OF KENYA

IN THE HIGH COURT

AT ELDORET

Civil Appeal 164 of 2010

ANNE N. ONDABU.....APPELLANT

VERSUS

THOMAS OSAKA.....1ST RESPONDENT

NEHEMIAH ACHUTI MOCHAMA.....2ND RESPONDENT

RULING:

The application before this court is brought by way of Notice of Motion under the provisions of Order 51 Rule 1 & 3, Order 42 Rule 6(1), (4), 7(2) & 9 of the Civil Procedure Rules and all other enabling provisions of the law.

The Applicant is seeking a stay of the Order of this Court dated the 8th June 2012 pending the hearing and determination of an appeal to the Court of Appeal.

The Applicants submissions are the same as those raised when arguing the Notice of Motion dated 21st March 2011 that gave rise to the Order being appealed against.

The Applicant has chosen not to comply with the said order and has opted to prefer an appeal to the Court of Appeal.

The stay is hereby granted on the same reasons as set out in this Court's Order dated 8th June 2011 and upon the same terms and conditions;

It is hereby ordered that;

1) The Applicant do pay the 2nd Respondent the sum of Kshs.76,250/= within seven (7)days from the date hereof.

2) The balance deposited in Court, to be retained pending the hearing and final determination of the appeal.

3) In default the 2nd Respondent be at liberty to execute the decree to recover the said portion.

4) The 2nd Respondent shall have the costs of this application.

It is so ordered.

Dated and Delivered at Eldoret this 13th day of July 2012.

A.MSHILA
JUDGE

Coram: Before Hon. A Mshila J
CC; Andrew

Counsel for the Appellant Yego holding brief for Buluma.

Counsel for the Respondents Kariuki

A.MSHILA
JUDGE