

this application is denied, the suit will proceed to hearing and if the plaintiff's claim is allowed, the defendant will have the liberty to appeal against the judgment and also seek stay of execution. If the application is allowed and the appeal eventually succeeds, that will be the end of the matter, save for costs.

Further if the application is declined and the suit is heard and determined in favour of the plaintiff and the appeal eventually succeeds, the judgment can easily be set aside subject to costs.

In this premises, I find, and hold that the defendant's appeal if successful would not be rendered nugatory unless there is a stay of proceedings in this suit. I am not satisfied that any other substantial loss will result to the applicant unless these proceedings are stayed. No sufficient cause has therefore been shown.

In the end the application dated 28th February, 2012 and filed on the same date is without merit and is hereby dismissed with costs.

Orders accordingly.

DATED AND DELIVERED AT ELDORET

THIS 5TH DAY OF SEPTEMBER, 2012

**F. AZANGALALA
JUDGE**

Read in the presence of:-

Mr. Omusundi H/B for Mr. Onyinkwa for the plaintiff and

Mr. Namiti H/B for Ochid for the defendant.

**F. AZANGALALA
JUDGE**

5TH SEPTEMBER, 2012