

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
CIVIL APPEAL NO. 49 OF 1998

FELISTA WANJIRU NYINGI.....PLAINTIFF
VERSUS
SAMUEL CHEGE GACHIE.....DEFENDANT

RULING

When the learned trial magistrate made an order to set aside the ex-part judgment, the same was on condition that a sum of Kshs. 273,933/- be deposited.

There has been an appeal filed which is pending for hearing. As of now the court is only concerned with the issue of whether or not the said appeal shall be rendered nugatory ;if the said order is not stayed. Further, the applicant has to show there is an arguable appeal.

I have given consideration tot he submissions made by both learned counsel. I have related the same to the record before me and I believe the ends of justice shall be met if a stay is granted as prayed in the chamber summons dated 2nd March, 1998.

Accordingly the application succeeds and costs shall be in the cause.

Orders accordingly.

Dated and delivered at Nairobi this 25th day of June, 1998

A. MBOGHOLI MSAGHA
JUDGE