



**REPUBLIC OF KENYA**

**IN THE COURT OF APPEAL**

**AT NAIROBI**

**(CORAM: GICHERU, TUNOI & SHAH, J.J.A.)**

**CIVIL APPLICATION NO. NAI 60 OF 1998**

**BETWEEN**

**1. MASTERMIND TOBACCO LIMITED**

**2. DIONSIO KAMUNDE.....APPLICANTS**

**AND**

**LILIAN MWENDWA (Suing through her mother DOROTHY  
KAIRUTHI.....RESPONDENT**

**(An intended appeal from the ruling of the High Court of  
Kenya at Meru (Hon. Mr. Justice Etyang given on the  
12th day of March, 1998**

**in**

**H.C. MISC. APPLICATION NO. 12 OF 1998)**

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**RULING OF THE COURT**

We have before us an application for stay of execution of a decree of the Resident Magistrate's Court at Meru. The said Court declined to grant stay of execution pending appeal to the superior Court. The superior court in a miscellaneous application for stay of execution, pending appeal to that court declined to order any stay of execution. The intended appeal is against such refusal by the superior court. We have no notes of the learned judge before us. Nor do we have a copy of his ruling. In this state of affairs we are unable to say if the intended appeal is an arguable one or that it is not frivolous. In these circumstances we have no alternative but to dismiss this application, which we hereby do, with costs to the respondent.

**Dated and delivered at Nairobi this 31st day of March, 1998.**

**J. E. GICHERU**

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**JUDGE OF APPEAL**

**P. K. TUNOI**

.....

**JUDGE OF APPEAL**

**A. B. SHAH**

.....

**JUDGE OF APPEAL**

**I certify that this is a true copy of the original.**

**DEPUTY REGISTRAR**