

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL OF KENYA**

AT NAIROBI

Civ Appli 275 of 1993 (NAI 118/93UR)

Spie Batignolles (K) Ltd.....APPLICANT

Versus

Stanley Aramis Kibet.....RESPONDENT

RULING

December 1, 1993, Cockar, Omolo and Tunoi JJ A delivered the following Ruling.

Judgment was entered against the respondents by M Msagha J on 29 July, 1993 in the sum of Shs 4,152,640/=. The applicant's application for stay of execution pending appeal lodged in the Superior Court was heard by the said judge on 22nd October, 1993. He ordered *inter alia* that a sum of Shs 2,000,000/= be paid by the applicant to the respondent within 21 days and that the balance of the decretal amount be paid into an interest earning account opened in the joint names of the applicant's and the respondent's advocates.

The applicant is aggrieved by the said order of the learned judge and avers that the respondent who is totally paralysed, unemployed and incapable of earning any income may not be able to repay the sum paid to him in the event of the appeal being successful.

Considering all the particular circumstances of this case and the fact that the respondent needs some money for his medical expenses, we are of the view that he should have some amount of money paid to him for such purpose. This should be Shs 1,000,000/= which we think is fair and reasonable in the circumstances. The balance of the decretal sum shall be paid into a joint interest bearing account in the names of the respondent's and the applicant's advocates. The cost of this application shall be in the appeal.

The cheque for Shs 1,000,000/= shall be made out in the name of the respondent Stanley Aramis Kibet.

December 1, 1993

Cockar, Omolo & Tunoi, JJ A