



**Kimani v Nganga & another (Suing as the Administrators of the Estate of Ezekiel Gitehi Nganga) (Civil Appeal E144 of 2025) [2025] KEHC 15885 (KLR) (31 October 2025) (Directions)**

Neutral citation: [2025] KEHC 15885 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KIAMBU  
CIVIL APPEAL E144 OF 2025  
DO CHEPKWONY, J  
OCTOBER 31, 2025**

**BETWEEN**

**JOEL MBURU KIMANI ..... APPELLANT**

**AND**

**MARY MUTHONI NGANGA ..... 1<sup>ST</sup> RESPONDENT**

**MOUREEN WANJIKU MUIGAI ..... 2<sup>ND</sup> RESPONDENT**

**SUING AS THE ADMINISTRATORS OF THE ESTATE OF EZEKIEL GITEHI  
NGANGA**

*(Being an Appeal from the Judgment delivered on 31st July, 2025 by Hon. Lilian  
N. Kwamboka in Kikuyu Magistrate's Court Civil Case No.E490 of 2024)*

**DIRECTIONS**

**Ruling On Directions**

1. Vide a Notice of Motion application dated 15<sup>th</sup> August, 2025, the Applicant sought for stay of execution of the Judgment and or any other orders issued against him by the trial court on 31<sup>st</sup> July, 2025 pending the hearing and determination of an appeal he has lodged. However, upon considering the said application on 19<sup>th</sup> August, 2025, found that the Applicant had failed to comply with the High Court Vacation Rules and had not demonstrated any evidence of imminent execution. The court declined to certify the application urgent and fix it for hearing during the recess. The application was then fixed for interparties hearing on 16<sup>th</sup> September, 2025.
2. According to the Applicant, he was served with the Warrants of Attachment on 1<sup>st</sup> September, 2025 and he then filed a Notice of Motion application dated 2<sup>nd</sup> September, 2025 wherein he has sought for stay of execution of the Judgment and in any further proceedings including the Warrant of Attachment



of property dated 28<sup>th</sup> August, 2025 and any Proclamation of Attachment pending the interparties hearing and final determination of this appeal.

3. According to the Applicant, if the Respondents are paid the decretal sum, the appeal will be rendered nugatory and yet it has high chances of success. He also confirmed that he was ready to abide by the terms the court would grant and he was in the process of procuring the certified copies of proceedings and Judgment in order to prepare the Record of Appeal.
4. On 4<sup>th</sup> September, 2025, the court granted the Appellant a conditional stay of execution and directed the Applicant to pay the Respondent a sum of Kshs.3,000,000 = as part payment of the decretal sum within seven (7) days, failing which the Respondent can proceed with execution. The application was then fixed for interparties hearing on 16<sup>th</sup> September, 2025.
5. When the application came up for interparties hearing on 16<sup>th</sup> September, 2025, the Respondents' counsel, M S Kairu informed the court that the Applicant had not deposited the Kshs.3,000,000 = as ordered by the court and urged the court to vacate the orders to allow for the execution to proceed.
6. In response, M S Sigei, counsel for the Applicant indicated that they were in the process of processing the said payment since it was a high amount and requires to be approved. He undertook to confirm the deposit of the amount on the account within three (3) days from the said date.
7. In rejoinder, M S Kairu, counsel for the Respondents sought for directions that the Applicant be directed the Applicant's deposit the sum directed within three (3) days, failure to which execution should proceed.
8. Having listened to both counsel for the parties herein, the court has read through the pleadings herein and notes that the trial court delivered the impugned Judgment on 31<sup>st</sup> July, 2025 and confirms the directions and or orders it issued vide the applications dated 15<sup>th</sup> August, 2025 and 2<sup>nd</sup> September, 2025.
9. The Court has also noted that the Applicant has not provided any proof of payment and or intention to pay the said amount to the Respondents to confirm compliance with the said court orders. In the absence of any evidence of compliance and or intention to comply with the said court orders, the court cannot issue further orders in vain, hence cannot entertain the present application. In view of this, the following directions issue:-
  - a. The orders issued on 4<sup>th</sup> September, 2025 be and are hereby extended and the Applicant is ordered to deposit the sum of Kshs.3,000,000 = within three (3) days from the dated of this ruling. For avoidance of doubt, to be deposited on or before 19<sup>th</sup> September, 2025.
  - b. In default of the above order (a), applications shall stand automatically vacated with or no further recourse from this court and the Respondents be at liberty to proceed with execution.
  - c. The Deputy Registrar to call for and avail the original record of proceedings in Kikuyu SPMSS No.E450 of 2024.
  - d. Mention on 10<sup>th</sup> November, 2025 for parties to confirm compliance and take further directions on hearing of the appeal.

It is so ordered.

**RULING DELIVERED VIRTUALLY, DATED AND SIGNED AT KIAMBU THIS 31<sup>ST</sup> DAY OF OCTOBER, 2025.**

**D. O. CHEPKWONY**



## **JUDGE**

In the presence of:

M S Sigei counsel for the Appellant Applicant

M S Kairu counsel for the Respondents

Court Assistant – Martin Sakina

