



**Wanja (Suing as the Legal Representative and Administratrix of the Estate of Kenneth Murugi) v
Gitonga (Civil Appeal E107 of 2023) [2025] KEHC 16518 (KLR) (10 November 2025) (Ruling)**

Neutral citation: [2025] KEHC 16518 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
CIVIL APPEAL E107 OF 2023
SM GITHINJI, J
NOVEMBER 10, 2025**

BETWEEN

**JENNIFER WANJA (SUING AS THE LEGAL REPRESENTATIVE AND
ADMINISTRATRIX OF THE ESTATE OF KENNETH MURUGI) .. APPELLANT**

AND

KENNETH GITONGA RESPONDENT

RULING

1. For determination is the Notice of Motion dated 28th March 2025 brought under sections 1A, 1B, 3A, 3B, 79G and 95 of the *Civil Procedure Act*, Order 22 Rule 22, Order 42 Rules 4, 6 and 7 and Order 50 Rule 1 and Order 51 Rules 1 and 3 of the Civil Procedure Rules, seeking that:
 1. Spent
 2. Spent
 3. This Honourable Court be pleased to order a stay of execution of the proclamation, Warrants of attachment and warrants of sale of property issued to the Applicants by Quickline Auctioneers dated 07.03.2025.
 4. This Honourable Court be pleased to grant the Applicants 30 days to pay kshs. 193,642/= being the pending balance.
 5. Quickline Auctioneers be directed to tax their costs.
 6. Spent
 7. The costs of this Application be borne by the Respondents.



2. The application is premised on the grounds that the decretal sum has already been paid save for Ksh. 193,642 only, which the Applicant is willing to pay in 30 days. The Applicant will suffer irreparable loss unless the stay sought is granted.
3. The Respondent swore a replying affidavit on 7/4/2025 in opposition to the application. She avers pursuant to the Applicant's refusal to settle the outstanding decretal sum of Ksh. 205,871, warrants of attachments were duly issued on 7/3/2025. The application has thus been filed in bad faith because there is no justification for the Applicant's failure to settle the balance of the decretal sum since 26/11/2024.
4. The application was canvassed by way of written submissions, which were duly filed by counsel for both parties.

Determination

5. Order 22 Rule 22 of the Civil Procedure Rules provides that, "(1) The court to which a decree has been sent for execution shall, upon sufficient cause being shown, stay the execution of such decree for a reasonable time to enable the judgment-debtor to apply to the court by which the decree was passed, or to any court having appellate jurisdiction in respect of the decree or the execution thereof, for an order to stay the execution, or for any other order relating to the decree or execution which might have been made by the court of first instance, or appellate court if execution has been issued thereby, or if application for execution has been made thereto. (2) Where the property or person of the judgment-debtor has been seized under an execution, the court which issued the execution may order the restitution of such property or the discharge of such person pending the results of the application. (3) Before making an order to stay execution or for the restitution of property or the discharge of the judgment-debtor the court may require such security from, or impose such conditions upon, the judgment-debtor as it thinks fit."
6. The Appeal herein was substantively heard and determined by this court (C. Kendagor J) on 26/11/2024, and therefore, there is no live appeal upon which an order for stay of execution under Order 42 Rule 6 of the Civil Procedure Rules, can be properly founded. Moreover, no explanation has been proffered for the belated filing of the instant application on 28/3/2025. There is a concession that a substantial amount of the decretal sum has already been paid, and duly acknowledged by the Respondent. Had the Applicant been genuinely intent on settling the outstanding decretal sum in 30 days as sought, the same would have been done by 28/4/2025.
7. There is no gainsaying that execution is a lawful process, and in the absence of any lawful excuse to impede the Respondent's enjoyment of the fruits of her judgment, there is no basis upon which the court can exercise its discretion to grant the stay sought.
8. I thus find it just and fair to bring the litigation herein to an end.
9. The upshot from the foregoing is that the application dated 28/3/2025 is in want of merit and it is hereby dismissed with cost to the Respondent.

DATED AND DELIVERED AT MERU THIS 10TH DAY OF NOVEMBER, 2025.

S.M. GITHINJI

JUDGE

Appearance

Ms. Nanjira for the Applicant (absent).



Mr. Kiogora for the Respondent (absent).

