



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAKURU

CIVIL APPEAL E172 OF 2025

ALPHONCE KIOKO KIVINDU -----
PLAINTIFF

VERSUS

ROSE WANGARI NDURURI -----
DEFENDANT

RULING

1. The Appellant brings a Notice of Motion dated 16th June 2025 praying for these orders *inter alia*:
 1. **Spent.**
 2. **Spent.**
 3. **Spent.**
 4. **Leave to appeal the Lower Court's Judgement out of time.**
 5. **Setting aside and/or stay of execution of the judgement pending hearing and determination of the Appeal.**
2. Despite evidence of service of the Application upon the Respondent, no reply was proffered.

3. In a nutshell, the Appellant contends by affidavit in support of the Application that he did not deliberately delay to Appeal and that he would suffer substantial loss if stay of execution pending the Appeal is not granted.
4. The Application is deemed as unopposed and is granted as follows;-
 - a) **Leave to appeal out of time is granted.**
 - b) **Stay of execution of the lower court's Judgement and/or Decree is ordered pending hearing and determination of the Appeal, on condition that the entire decretal sum is deposited into court within 30 days from the date hereof.**
 - c) **The Appellant shall file and serve the Record of Appeal within 30 days from the date hereof.**
 - d) **In default of compliance with orders (b) and (c) above, the Application shall automatically stand dismissed and the Respondent shall be at liberty to levy execution.**
 - e) **The costs of the Application shall abide the Appeal.**

J. M. NANG'EA, JUDGE.

**Ruling dated, signed and delivered virtually at Nakuru
this 17th day of November, 2025.**

In the presence of:

Mr. Odhiambo Advocate for the Appellant/Applicant
Respondent, Absent
Court Assistant (Jeniffer)

J. M. NANG'EA, JUDGE.

Original