

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT BUNGOMA**  
**HIGH COURT CIVIL APPEAL NO. E164 OF 2025**  
**SIKOWO KISO MOSES..... 1<sup>ST</sup> APPELLANT**  
**JOAN CHEBET BARASA.....2<sup>ND</sup> APPELLANT**  
**VERSUS**  
**DANIEL WANJALA MASAI WAMOTO alias**  
**DANIEL WANJALA MAASAI alias**  
**WAMOTO DANIEL WANJALA.....RESPONDENT**

**RULING**

1. I have considered the Applicant's /Appellant's notice of motion dated 6.11.2025, the affidavit in support thereof sworn by Moses Barasa on even date, the Replying affidavit of Daniel Wanjala Masai Wamoto alias Daniel Wanjala Maasai sworn on 14.11.2024 and the further affidavit of Joan Chebet Barasa sworn on 18.11.2025. I have also considered the oral submissions of parties' advocates while noting that the Appellants are proposing to prevail upon their insurer to issue a bank guarantee as security for eventual settlement of the Judgment sum while the Respondent maintains that the decretal sum ought to be deposited in a joint interest earning account of parties advocates.
2. I do find that the applicants have moved this court without delay, have offered to furnish security in form of a bank guarantee and are apprehensive that if stay is not granted then their appeal may be rendered nugatory and that the respondent may not be able to undertake restitution; the applicants

have met the threshold under order 42 Rule 6 of the Civil procedure Rule for grant of stay.

3. On the other hand the Respondent as a successful party in the lower court is entitled to enjoy the fruits of Judgement. Given that this court has to balance the interest of all the parties herein, I will allow this application conditional upon the furnishing of security by the Applicants. I thus make the following orders: -

(1) An order of stay of execution is hereby granted against the Judgement delivered in Kimilili CMCC No. E041 of 2023 pending the hearing and determination of this appeal on the following conditions: -

- a) The appellants shall deposit a bank guarantee of Ksh 3,000,000/- in court within 60 days and the balance of 2,780,489/- be deposited in a joint interest earning account of parties' advocates within 60 days from the date hereof.
- b) In the event of default and compliance with order 1 (a) hereinabove, the Respondent shall be at liberty to execute.

(2) The Respondent is awarded costs of this application assessed at Ksh 15,000/- payable within 60 days from the date hereof.

**Delivered, signed, and dated at Bungoma this 25<sup>th</sup> day of November, 2025.**

**MWANAISHA S. SHARIFF**

**JUDGE.**