

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT BUSIA**  
**MISC. CIVIL APPLICATION NO. E068 OF 2025**

**THE BOARD OF MANAGEMENT,**  
**STANLEY GODIA SECONDARY SCHOOL.....**  
**APPLICANT**

**VERSUS**

**MARGARET NABWIRE OMWOSA.....**  
**RESPONDENT**

**RULING**

1. The Motion, dated 11<sup>th</sup> July 2025, seeks 2 principal orders, stay of execution of a judgment delivered on 8<sup>th</sup> March 2025, in Busia CMCCC No. E307 of 2023, and leave to appeal, against the orders made in that judgment, out of time.
2. It is averred that the instructions, to file appeal out of time, were given on 11<sup>th</sup> June 2025, by which time the time within which to file appeal had lapsed. It is averred that the insurer was not informed in time of the Judgment, to facilitate the instructions, due to pressure of work. It is argued that the proposed appeal raises serious points of law.
3. The application is opposed. It is averred that the judgment was delivered on 8<sup>th</sup> May 2025, in the presence of the Advocates for both sides. It is further averred that after the judgment, the respondent, on 15<sup>th</sup> May 2025, prepared a bill of costs, which was forwarded to the Advocates for the applicant on 15<sup>th</sup> May 2024. The parties then entered a consent, in a letter dated 4<sup>th</sup> June 2024, to settle costs at Kshs. 105,000.00, signed by their Advocates. The respondent expresses surprise at the alleged instructions of 11<sup>th</sup> June 2025.
4. Although the applicant alleged to have had received instructions, on 11<sup>th</sup> June 2025, to file appeal, I do not have, before me, evidence of that, in a letter or email. Anyhow, judgment was delivered on 8<sup>th</sup> May 2025, and getting instructions, on 11<sup>th</sup> June 2025, to file appeal, cannot be said to have been after inordinate delay.
5. I shall, in the circumstances, allow the Motion, dated 11<sup>th</sup> July 2025, so that:

- a) leave to appeal, of 30 days, is hereby granted;
- b) the draft memorandum of appeal, attached to the application, is not deemed as duly filed, as the instant cause is not an appeal, but a miscellaneous application;
- c) there shall be stay of execution of the decree and judgment of 8<sup>th</sup> May 2025, on condition that the appellant shall deposit in court, in the next 30 days, the judgment sum of Kshs. 549,347.00;
- d) in default of deposit of the said amount, in terms of (c) above, the stay order shall lapse automatically; and
- e) this matter shall be mentioned on 26<sup>th</sup> January 2026 for compliance.

**DELIVERED, VIA EMAIL, DATED AND SIGNED IN CHAMBERS, AT  
BUSIA, ON THIS 5<sup>TH</sup> DAY OF DECEMBER 2025.**

**WM MUSYOKA  
JUDGE**

**Mr. Arthur Etyang, Court Assistant, Busia.**

**Advocates**

**Ms. Nyangano, instructed by Omayya & Company, Advocates for the applicant.**

**Mr. Omondi, instructed by Omondi & Company, Advocates for the respondent.**