



Wangari Ndirangu & Co. Associates v Chege (Miscellaneous Application E138 of 2023) [2026] KEHC 581 (KLR) (Family) (23 January 2026) (Ruling)

Neutral citation: [2026] KEHC 581 (KLR)

REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
MISCELLANEOUS APPLICATION E138 OF 2023
PM NYAUNDI, J
JANUARY 23, 2026
IN THE MATTER OF THE ADVOCATES ACT CAP 16 LAWS OF KENYA AND IN
THE MATTER OF TAXATION OF COSTS BETWEEN ADVOCATE AND CLIENT
AND
IN THE MATTER OF A REFERENCE FROM THE DECISION
OF THE TAXING OFFICER OF 30TH JANUARY 2024
BETWEEN
WANGARI NDIRANGU & CO. ASSOCIATES APPLICANT
AND
STEPHEN KARANJA CHEGE RESPONDENT

RULING

1. On 7th March 2025, I dismissed the applicant's reference dated 14th March 2024, in which the Advocate challenged the decision of the Taxing Master dated 30th January 2024. The applicant has now filed Chamber Summons dated 28th May 2025 seeking the following orders-
 1. That this Court be pleased to grant, to the Advocate/ Applicant, leave to appeal against the decision of this Court delivered on 7th March 2025
 2. That there be a stay of execution of the ruling on taxation delivered herein on 30th January 2024, pending the lodging, hearing and determination of the Applicant's intended appeal to the Court of Appeal against the said ruling
 3. THAT costs of this application be provided for.



2. The applicant's application is presented under Order 11(3) of the Advocates remuneration order and Order 42 rule 6 of the Civil Procedure Rules and is two pronged. The Advocate seeks to assert their constitutional right to appeal on one hand and secondly seeks to avert substantial loss. The Advocate is aggrieved by the fact that the import of the decision of the taxing master, which I upheld is that the firm is liable to refund the respondent the sum of Kshs 802,325.71
3. The Application was canvassed via written submissions. The Applicant's submissions are dated 23rd October 2025. It is submitted that the Court is vested with the requisite jurisdiction to determine the application and reference made to the Supreme Court decision in Samuel K. Macharia & Anor v Kenya Commercial Bank & 2 Others [2012] eKLR and Sango Bay Estates and Another v Dresdner Bank [1971] EA 17.
4. It is further submitted that the application meets the legal threshold for grant of stay of execution pending appeal as enunciated by Statute and legal precedent. Reference is made to the decisions in Butt v Rent Restriction Tribunal [1982] KLR 417; Mukuma v Abuoga [1988] KLR 645; Barasa v Nambale [2025] KEHC 4986 (KLR) and Focin Motorcycle Co Limited v Ann Wambui Wangui [2018] eKLR. It is also submitted that the overriding objective which is that the Court delivers substantive justice tilts in favour of preserving the Kshs 802,352.71 pending the outcome of the appeal and reliance placed on the decisions in African Safari Club v Safe Rentals Ltd Court of Appeal at Nairobi, Civil Application No. 53 of 2010 and E. Muriu Kamau and Another v National Bank of Kenya [2009] eKLR.
5. On the 1st limb, I have no reservations in granting leave to appeal for as correctly stated the applicant is within their rights to pursue an appeal. I am obligated to keenly scrutinize the application for stay of execution pending appeal as the effect will be to delay the respondent's right to enjoy the fruits of a judgment that is in their favor.
6. In the case of Machira t/a Machira & Co Advocates versus East African Standard [2002] KEHC 1167 (KLR) the court held as follows;

To be obsessed with the protection of an appellant or intending appellant in total disregard or flitting mention of the so far successful opposite party is to flirt with one party as crocodile tears are shed for the other, contrary to sound principle for the exercise of a judicial discretion.

The ordinary principle is that a successful party is entitled to the fruits of his judgment or of any decision of the court giving him success at any stage. That is trite knowledge. This is one of the fundamental procedural values which is acknowledged and normally must be put in effect by the way we handle applications for stay of further proceedings or execution, pending appeal.

Of course, in the application of that ordinary principle, the court must have its sight firmly fixed on upholding the overriding objective of the rules of procedure for handling civil cases in the courts, which is to do justice in accordance with the law and to prevent abuse of the process of the court.
7. I am satisfied that in accordance with Order 42 rule 6 of the Civil procedure Rules the applicant has satisfied the requirement that the appeal is arguable and further that it was presented without delay. What is left for consideration is whether in granting these orders, I will also safeguard the interests of the respondent.



8. In the circumstances of the case, I feel that the interests of the respondent will be safeguarded, if the stay of execution is granted on condition that the applicant deposits the sum of Kshs 802325.71 in Court within 30 days from the date hereof.

9. Each party shall bear their own costs

SIGNED, DATED AND DELIVERED VIRTUALLY AT NAIROBI ON THIS 23RD DAY OF JANUARY 2026.

P. M. NYAUNDI

JUDGE

In the Presence of

Fardosa Court Assistant

Nduta Kamau holding brief for Kamau Kuria Sc for Applicant.

Adhiambo holding brief for Mbaluto for Respondent.

