



REPUBLIC OF KENYA



**KENYA LAW**  
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**Lenguro v Jillo (Miscellaneous Civil Application E030 of 2025)  
[2026] KEHC 1440 (KLR) (Civ) (12 February 2026) (Ruling)**

Neutral citation: [2026] KEHC 1440 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT ISILOLO  
CIVIL  
MISCELLANEOUS CIVIL APPLICATION E030 OF 2025  
SC CHIRCHIR, J  
FEBRUARY 12, 2026**

**BETWEEN**

**ANDREW LESUNGUR LENGURO ..... APPLICANT**

**AND**

**ZULFA ABDULAH JILLO ..... DEFENDANT**

**RULING**

1. The Applicant's Notice of Motion dated 09/10/2025 seeks orders as follows:-
  1. (Spent)
  2. (Spent)
  3. (spent)
  4. That pending the hearing and determination of the intended Appeal, there be a stay of execution of the Judgment and Decree delivered on 15/07/25 in Isiolo Chief Magistrate's Court No. E103 of 2024.
  5. That, the Applicant be granted leave to file the Appeal out of time.
  6. That the Memorandum of Appeal annexed hereto be deemed as duly filed upon payment of the required court fees in the Intended Appeal .
2. It is the Applicant's case that he intends to file an Appeal against the Judgment of the trial court; that the delay was caused by the delay in procuring the Lower Court Proceedings. It is submitted that the delay is no inordinate.



3. It is further submitted that the Intended Appeal is arguable with high chances of success. The Applicant is apprehensive that the Respondent may proceed with execution of the Lower Court Judgment, which will have the effect of rendering the Intended Appeal nugatory.
4. The application is not opposed.

### **Determination**

5. There are two issues in this Application, namely:
  - a). Whether enlargement of time to file the Appeal is warranted
  - b). whether stay of Execution should be granted.
6. On enlargement of time, the Applicant must meet certain conditions as set out in the case of Paul Musili Wambua -vs- A.G. [2015] KECA 471 (KLR), where the court of Appeal held: “it is now well settled by a long line of authorities by this Court that the decision of whether or not to extend the time for filing an appeal the Judge exercises unfettered discretion. However, in the exercise of such discretion, the court must act upon reason(s) not based on whims or caprice. In general, the matters which a court takes into account in deciding whether to grant an extension of time are; the length of the delay, the reason for the delay, the chances of the appeal succeeding if the application is granted, the degree of prejudice to the respondent if the application is granted. (See MUTISO V MWANGI) [1999] 2 EA 231.”
7. However, of paramount consideration is a plausible and satisfactory explanation in the delay . In the case of Andrew Kiplagat Chemaringo versus Paul Kipkorir Kibet [2018] KECA 701 (KLR); the court had this to say on the significance of a plausible and satisfactory explanation :“The law does not set out any minimum or maximum period of delay. All it states is that any delay should be satisfactorily explained. A plausible and satisfactory explanation for delay is the key that unlocks the court’s flow of discretionary favour. There has to be valid and clear reasons, upon which discretion can be favourably exercisable.”
8. The Applicant has stated there was a delay in procuring the Lower Court’s proceedings. This assertion has not been controverted, as the Respondent has failed to respond to the Application. I have no reason to doubt the Applicants Submission.
9. Lack of proceedings constitute a plausible and satisfactory delay as proceedings of the trial court form a mandatory document on the Record of Appeal. This prayer has merit.

### **Whether stay of execution should be granted.**

10. On stay pending appeal the conditions for granting stay are founded on Order 42 Rule 6 of the civil procedure Rules. The rule provides as follows:

“(1) No appeal or second appeal shall operate as a stay of execution or proceedings under a decree or order appealed from except appeal case of in so far as the court appealed from may order but, the Court Appealed from may for sufficient cause order stay of execution of such decree or order, and whether the application for such stay shall have been granted or refused by the court appealed from, the court to which such appeal is preferred shall be at liberty, on application being made, to consider such application and to make such order thereon as may to it seem just, and any person aggrieved by an order of stay



made by the court from whose decision the appeal is preferred may apply to the appellate court to have such order set aside.

(2) No order for stay of execution shall be made under subrule (1) unless—

(a) the court is satisfied that substantial loss may result to the applicant unless the order is made and that the application has been made without unreasonable delay; and (b) such security as the court orders for the due performance of such decree or order as may ultimately be binding on him has been given by the applicant.

(3) .....

(4) .....

(5) .....

(6) .....

11. The Applicants Submissions in this regard also remain uncontroverted.

12. The decretal sum herein is Ksh. 404,481, exclusive of costs and interest. I am satisfied, such an amount would constitute substantial loss.

13. On whether there has been delay, the record shows that Judgment at the trial court was delivered on 15/07/25 and the present Application was filed on 15<sup>th</sup> October, 2025. A 3 months delay is not inordinate in the circumstances.

14. The Applicant must also provide security of such nature and amount as would satisfy the decree in the event that that the intended Appeal fails. The decree herein is for Ksh. 404,481.

1. . 5Conclusion

- a. The Applicant herein to file the Memorandum of Appeal within 10 days from the date of this ruling, and serve the Respondents.
- b. There shall be a stay of execution of the Judgment and/or decree of the Lower Court in Isiolo CMCC No. E103/24 pending the hearing and determination of the Appeal.
- c. The stay granted under (b) above is conditional upon the Applicant depositing Ksh. 404, 481 in court within the next 30 days.
- d. In default of (c) above, the stay herein shall automatically lapse, and the Respondent will be at liberty to proceed with execution proceedings.
- e. The costs will abide the Appeal.

**DATED, SIGNED AND DELIVERED AT ISIOLO, THIS 12<sup>TH</sup> DAY OF FEBRUARY, 2026**

**S. CHIRCHIR**

**JUDGE**

In the presence of:-

Roba/Kalelo-Court Assistant

