



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT**

**MILIMANI LAW COURTS**

**ELC SUIT NO.1159 OF 2016**

**CHRISTOPER IRUNGU WAMBUGU.....PLAINTIFF**

**VERSUS**

**CATHERINE WAIRIMU MUGO t/a**

**MUGO WAIRIMU ADVOCATES.....DEFENDANTS**

**RULING**

1. The Defendant/Applicant filed a Notice of Motion dated 6<sup>th</sup> June, 2018 in which she sought stay of execution of this Court's ruling delivered on 28<sup>th</sup> May, 2018 in which the Applicant's defence was struck out and judgment entered for the Plaintiff as per the plaint. The Applicant contends that if there is no stay granted, the appeal will be rendered nugatory.

2. The Applicant's application was opposed by the Plaintiff/Respondent based on a replying affidavit sworn on 24<sup>th</sup> September, 2018. The Respondent contends that he is ready to concede to the application for stay on condition that the decretal sum is deposited in a joint interest earning account within 30 days from the date the order is made.

3. I have considered the Applicant's application as well as the proposal made by the Respondent who is ready to concede to the Applicant's application on condition that the entire decretal amount is deposited in a joint interest earning account. The decretal sum is Kshs.4,000,000/=. As the Applicant pursues her right of appeal, it is necessary that stay be granted. I therefore allow stay of execution on condition that the Applicant deposits Kshs.4,000,000/= in a joint interest earning account in the name of the Advocates for the parties herein in a reputable bank within 30 days from the date of this order failing which the stay shall automatically lapse. Costs in the cause.

It is so ordered.

**Dated, Signed and delivered at Nairobi on this 25<sup>th</sup> day of June, 2019.**

**E.O.OBAGA**

**JUDGE**

In the absence of parties who had notice of the date and time of delivery of Ruling.

Court Assistant Hilda