



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KERUGOYA
CIVIL APPEAL NO. E119 OF 2025

TRIDENT INSURANCE COMPANY LIMITED APPELLANT

VS

IRENE WAMBUI WACHIRA (*Suing as the Legal Representative and Administrator of the Estate of MANASE MWANIKI WACHIRA (DECEASED)*) **RESPONDENT**

RULING

1. Upon considering the Application dated 30/10/2025 and its Supporting Affidavit, the Replying Affidavit of 26/11/2025, and the Supporting Affidavit of 11/12/2025, the Court finds and rules as follows.
2. Although there is a Memorandum of Appeal dated 30/10/2025, and therefore an Appeal to this court, there is no application for any relief pending the hearing and determination of the appeal. The Notice of Motion dated 30/10/2025 is expressed to seek stay of execution and proceedings of the trial court only pending hearing of the very application!
3. However, in the interest of justice, the Court will determine the application on its merits as a prayer for relief pending hearing and determination of the Appeal.
4. The Appeal is from an order for deposit of a sum of money Kes.1,000,000 which cannot be said to be insignificant as to disclose no substantial loss especially where liability is challenged and in the event of successful appeal, the applicant may not recover from the Respondent the said amount.
5. Order 42 Rule 6 (1) of the Civil Procedure Rules requires a deposit of security for grant of stay of execution or proceedings pending appeal. The appropriate order for this provision of security on this appeal, which challenges the Trial Court's order for deposit pending hearing of the suit upon an application for setting aside of default

judgment is an order for deposit with the Court of a Guarantee for the performance of the decree of the trial court, if the Appeal to this Court is unsuccessful.

ORDERS

6. Consequently, while granting the order for stay of execution and stay of proceedings of the Trial Court pending hearing and determination of the Appeal, the Court directs that the appellant shall deposit in court **an Insurance/Bank Guarantee** for the amount of Kes.1,000,000 ordered by the trial court within fourteen (14) days.
7. In default, the order for stay or execution and proceedings shall lapse and be of no effect.
8. The Appeal shall be expedited to hearing, being one of a question of law, and directions therefor given.

Order accordingly.

DATED AND DELIVERED THIS 20TH DAY OF FEBRUARY 2026.

EDWARD M. MURIITHI

JUDGE

APPEARANCES:

Ms. Odhiambo for Mr. Wamalwa for the Applicant.

Mr. Gitahi for the Respondent.