

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA NAIROBI
CIVIL APPELLATE DIVISION
HCCA E429 OF 2024

TIMOTHY KANJUME
APPELLANT

VERSUS

TENDAI VILLAS LIMITED.....
RESPONDENT

RULING

1. The application before me basically seeks stay of the proceedings of the lower Court pending appeal. The main reason is that the lower court expunged 7 documents from the record thus exposing the Appellant herein to a miscarriage of justice.
2. The principle guiding staying active cases is now well established. The courts must refrain from stopping judicial processes unless where there are exceptional circumstances and in the same breath, the courts can only exempt documents under exceptional circumstances because such exemptions affect a quest for justice and since justice must be done, it must also be seen to be done. There must be a reason why the trial court expunged those documents and so I must know so as to balance the rights of both parties.

3. If this court was to dismiss this application and later admit the exempted documents, there would be a fundamental breach of justice. It is safer to hear why these documents were exempted and the only step to take is to halt the lower Court matter.
4. The conclusion of the above is that the application is allowed to the extent that the lower court proceedings are put on hold pending the determination of this appeal. Each party shall bear own costs.

**DATED, DELIVERED VIRTUALLY AND SIGNED ON THIS 11TH
DAY OF MARCH 2026.**

HON L P KASSAN

JUDGE

In the presence of;

Amuyunza for Appellant
Ogunye holding brief Kimani for Respondent
Carol - Court Assistant

COURT

Mention on 9/7/2026 before the Deputy Registrar for Record of Appeal and Submissions.

**HON L P KASSAN
JUDGE**

ORIGINAL