

REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA AT THIKA  
CIVIL APPEAL NUMBER E351 OF 2023

SARAH NJOKI GITUKU.....APPELLANT

-VERSUS-

MOLLY KINANU MITHIKA.....RESPONDENT

**RULING**

It is unfortunate that this matter is still pending for ruling on application dated 19<sup>th</sup> May 2025 by nature of which it should have been disposed of in the month of May 2025. The delay seems have been caused by confusion, mix-up or loss of track of the proceedings. I say so because this, in my opinion was matter was not properly screened for a service week.

The appeal proceeded to a considerable stage and judgement reserved for 23-05-2023 after parties appeared before Honourable Lady Justice Lady H.R. Namisi on 3-12-2025 and parties confirmed having filed submissions. By the application dated 19<sup>th</sup> May 2025 and before the date reserved for judgment, the appellant prayed that the court stays delivery of judgement pending hearing and determination of the application and civil appeal number E209 of 2022 pending at the Court of Appeal at Nairobi.

On the date the matter was set to come for judgment, the Honourable Judge postponed her directions to 26-05-2025 on which date, she referred the file to the Presiding Judge for directions on the disposal of both the application and the appeal. The record does not show the Judge saying anything about her pending judgment. Thereafter, the parties appeared before the Honourable Justice F. Muchemi and the Honourable Deputy Registrar on several occasions. Following

directions given during the said appearances, the parties filed their submissions on the application.

When the parties appeared before me on 12-09-2025, the nature of the application was not brought to my attention. If it had, I would not have reserved it for ruling as in my opinion, the nature of the application demands that the same be heard by the Judge who was seized of the file especially in respect of the judgment sought to be arrested. I am not that Judge and I do believe that I have no jurisdiction to arrest a judgment of a court of concurrent jurisdiction. The application will have to be deposited of first in one way or the other and directions on the pending appeal taken before a different Judge can take it over.

Based on the above, I down my tools and return the file to the Presiding Judge of the station for further directions noting that the Judge who was to deliver the judgement does not serve in the station.

Parties to appear before the Deputy Registrar of this court on a date to be given after delivery of this ruling.

Dated signed and delivered at Nairobi this 25<sup>th</sup> day of **March** 2026.

**B.M. MUSYOKI**  
**JUDGE OF THE HIGH COURT.**

Ruling delivered in presence of Miss Karogo for the appellant and Miss Wanjiru Njihia for the respondent.