



Okiro v Elmelda & another (Suing as personal representatives and legal administrators of the Estate of Aloys Manani Gitaga - Deceased) (Civil Appeal E009 of 2024) [2026] KEHC 4417 (KLR) (5 March 2026) (Ruling)

Neutral citation: [2026] KEHC 4417 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYAMIRA
CIVIL APPEAL E009 OF 2024
TW CHERERE, J
MARCH 5, 2026**

BETWEEN

BERNARD BOSIRE OKIRO RESPONDENT

AND

ELMELDA KEMUMA MANANI & EVANS OMWANGE MANANI (SUING AS PERSONAL REPRESENTATIVES AND LEGAL ADMINISTRATORS OF THE ESTATE OF ALOYS MANANI GITAGA - DECEASED) APPLICANT

RULING

1. Before this Court is the Notice of Motion dated 23rd February 2026 in which the Applicants seek an order that the sum of KES. 967,775 deposited in a joint interest earning account at Equity Bank Limited, Community Corporate Branch in the names of Kimondo Gachoka & Company Advocates and Ochoki & Company Advocates be released to the Applicant's advocates.
2. The background to the application is that the Respondent filed this appeal challenging the judgment of the trial court. Upon filing the appeal, the Court granted stay of execution pending appeal on condition that the Respondent deposits KES. 967,775 as security in a joint interest earning account in the names of the advocates for the parties.
3. The said sum was deposited on 09th April 2024 in the joint account at Equity Bank Limited, Community Corporate Branch.
4. The appeal was thereafter heard and judgment delivered by this Court on 19th June 2025. The Applicants now seek release of the deposited funds on the ground that the appeal has been determined and the purpose for which the security was deposited has been spent.
5. When the application came up for hearing today 05th March 2026, Ms. Moraa for the Respondent informed the Court that the Respondent was not opposed to the application.



6. Security deposited as a condition for stay of execution pending appeal is intended to secure due performance of the decree should the appeal fail. Once the appeal has been heard and determined, the Court is entitled to issue directions regarding the deposited funds.
7. In the present matter, the appeal has already been determined. There is therefore no basis for continued retention of the deposited funds in the joint account.
8. The Court is therefore satisfied that the application has merit. The Notice of Motion dated 23rd February 2026 is hereby allowed and it is hereby ordered:
 1. The sum of KES. 967,775 deposited in Equity Bank Limited, Community Corporate Branch in the joint names of Kimondo Gachoka & Company Advocates and Ochoki & Company Advocates, together with all accrued interest, shall be released to Ochoki & Company Advocates for the Applicants.
 2. Upon release of the said funds, the joint account shall be closed.
 3. There shall be no order as to costs.

DELIVERED AT NYAMIRA THIS 05TH DAY OF MARCH 2026

WAMAE.T. W. CHERERE

JUDGE

Appearances

Court Assistant - Hilda

For Applicants - Mr. Ochoki for Ochoki & Co. Advocates

For Respondent – Ms. Moraa for Kimondo, Gachoka & Co. Advocates

