



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT MERU

ELCL APPEAL CASE NO. E034 OF 2023

COSMAS MURIUNGI

THAMBO.....APPELLANT

-VERSUS-

MARK KARUNDU

MUKETHA.....RESPONDENT

RULING

(EX-TEMPORE)

1. Before court for determination is the appellant's notice of motion dated 23/12/2025. Through it, the appellant seeks an order staying execution of the judgment of this court dated 16/9/2025 and the subsequent decree, pending the hearing and disposal of a second appeal by the Court of Appeal.
2. The court has considered the question of its jurisdiction in the context of the plea for an order of stay of execution in relation to a negative order. In this appeal, this court exercised appellate jurisdiction as a first appellate court. It

did not find merit in the appeal and dismissed it for lack of merit. The court issued a negative order/decre.

3. Our courts have umpteen times emphasized that a negative order does not attract an order of stay of execution. This court is bound by the pronouncement of the Court of Appeal on the question. [See ***Western College of Arts & Applied Science Vs Oranga & others [1976] KLR 63***]. In the circumstances, the court finds that it has no jurisdiction to grant a stay order against a negative order. Consequently, the application dated 23/12/2025 is struck out.
4. In tandem with the general principle in **Section 27** of the **Civil Procedure Act**, the appellant/applicant shall bear costs of the application.

DATED, SIGNED AND DELIVERED AT MERU THIS 27TH DAY OF APRIL, 2026.

**B M EBOSO [MR]
ELC JUDGE**

In the presence of:

Mr Kaume for the Respondent.

Mr. Cosmas Thambo - Appellant - present in person

Court Assistant - Mr. E. Tupet