



Karanja v Wanjira (Suing as the Legal Representative and Administrator of the Estate of Charles Kabuthia Karanja (Deceased)) (Civil Appeal E176 of 2025) [2026] KEHC 5847 (KLR) (4 May 2026) (Ruling)

Neutral citation: [2026] KEHC 5847 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
CIVIL APPEAL E176 OF 2025
RN NYAKUNDI, J
MAY 4, 2026**

BETWEEN

PETER MIRARA KARANJA APPELLANT

AND

ANGERICAH WANJIRA (SUING AS THE LEGAL REPRESENTATIVE AND ADMINISTRATOR OF THE ESTATE OF CHARLES KABUTHIA KARANJA (DECEASED)) RESPONDENT

RULING

1. Before this Court is a notice of motion dated 20th day of November 2025 brought Pursuant to Order 42 Rules 4 and 6, Order 51 Rule 1 of the Civil Procedure Rules 2010, Section 3 and 3A of the [Civil Procedure Act](#) and all enabling provisions of the law. The Applicant seeks the following orders:
 - a. That this Honourable Court be pleased to stay any further proceedings in Eldoret CMCC E266 of 2024 Angerichah Wanjira (Suing as the Legal Representative and Administrator of the Estate of Charles Kabuthia Karanja (Deceased) -Vs- Peter Mirara Karanja pending the hearing and determination of this Application inter-paties.
 - b. That this Honourable Court be pleased to issue an order stay of further proceedings in Eldoret CMCC E266 of 2024 Angerichah Wanjira (Suing as the Legal Representative and Administrator of the Estate of Charles Kabuthia Karanja (Deceased) -Vs- Peter Mirara Karanja pending the hearing and determination of the appeal herein, ELDORET HCCA No. E065 OF 2025.
 - c. That the costs of this Application be in the cause.
2. The application is based on the grounds that:



- a. The Respondent instituted a suit against the Appellant vide a Plaint dated 13th May 2024 where she alleged that her husband had been fatally wounded in a road traffic accident that occurred on 13th August, 2023 along the Eldoret-Nakuru Highway involving the Appellant/Applicant's Motor Vehicles Registration Numbers KCL 507 N.
 - b. In response to the Plaint, the-Appellant/Applicant filed his statement of defense dated 5th July 2024 denying all the allegations in the statement of claim and the matter proceed for hearing on the 23rd July 2025.
 - c. That on the day of the hearing day, the Respondent proceeded to produce receipts in support of special damages worth Kshs-533;785/=, from different institutions.
 - d. That in opposition to this move, the Appellant's Counsel raised an objection on the grounds that the Respondent was not the maker of said receipts, the said receipts were not tax compliant as Section 19 and 20 of the Stamp Duty Act and also because some of the institutions issuing the receipts could not be traced.
 - e. That the Honourable Court, in her ruling, overruled the Appellant/Applicant's objections and allowed the receipts to be produced forming part of the Court record.
 - f. That being aggrieved with the decision of the Trial Court, the Appellant pursued the present appeal which has been slated for directions before the Deputy Registrar on the 22nd January 2026.
 - g. That however the primary suit, Eldoret CMCC E266 of 2024 Angerich Wanjira (Suing as the Legal Representative and Administrator of the Estate of Charles Kabuthia Karanja (Deceased) -Vs-Peter Mirara Karanja, is scheduled to proceed for further hearing of the Respondent/Plaintiff's suit on the 10th of December 2025
 - h. That given the fact that the decision of this Honourable Court might alter the Proceedings and determination of Eldoret CMCC E266 of 2024 Angerich Wanjira (Suing as the Legal Representative and Administrator of the Estate of Charles Kabuthia Karanja (Deceased)- Vs- Peter Mirara Karanja, there is a need to have said suit stayed pending the hearing and determination of this application and the subsequent appeal.
 - i. That it is in the interest of justice that this Application be allowed as prayed.
3. In support of the application is the annexed affidavit of one Kinyanjui Diana Wamuyu who deposed as follows:
- a. That I am Advocate of the High Court of Kenya practicing in the firm of Ms KRK AdvocatesLLP who are in conduct of the matter herein on behalf of the Applicant.
 - b. That I am privy to information and/or facts appertaining to the matter herein and therefore competent and authorized to swear this Affidavit.
 - c. That it is within my knowledge that the Respondent instituted a suit against the appellant vide Plaint dated 13th May 2024 where she alleged that her husband had been fatally wounded in a road traffic accident that occurred on 13th August, 2023 along the Eldoret-Nakuru Highway involving the Appellant/Applicant's Motor Vehicles Registration Numbers KCL 507 N.



- d. That in response, the Appellant/Applicant through his advocate, filed his statement of defense dated denying all the allegations in the Complaint and the matter proceeded for hearing on the 23rd July, 2025.
 - e. That on the day of the hearing day, the Respondent proceeded to produce receipts in support of special damages worth Kshs 533,785/=, from different institutions.
 - f. That in opposition to this move, the Appellant's Counsel raised an objection on the grounds that the Respondent was not the maker of said receipts, the said receipts were not tax compliant as per Section 19 and 20 of the Stamp Duty Act and also because some of the institutions issuing the receipts could not be traced.
 - g. That the Honourable Court, in her ruling, overruled the Appellant/Applicant's objections and allowed the receipts to be produced forming part of the Court record.
 - h. That being aggrieved with the decision of the Trial Court, the Appellant pursued the present appeal which has been slated for directions before the Deputy Registrar on the 22nd January 2026.
 - i. That however, the primary suit, Eldoret CMCC E266 of 2024 Angerich Wanjira (Suing As the Legal Representative and Administrator of the Estate of Charles Kabuthia Karanja (Deceased)-Vs-Peter Mirara Karanja, is scheduled to proceed for further hearing of the Respondent/Plaintiff's suit on the 10th of December 2025.
 - j. That given the fact that the decision of this Honourable Court might alter the Proceedings and determination of Eldoret CMCC E266 of 2024 Angerich Wanjira (Suing as the Legal Representative and Administrator of the Estate of Charles Kabuthia Karanja (Deceased)-Vs-Peter Mirara Karanja, there is a need to have said suit stayed pending the hearing and determination of this application and the subsequent appeal.
 - k. That it is in the interest of justice that this Application be allowed as prayed.
 - l. That I make this affidavit in support of the Appellant/Applicant's instant Application herein.
4. In support of the application the learned Counsel Mr. Kairu filed written submissions on the legal perspectives with regard to the interlocutory issues touching on the application on the stay of execution pending the hearing and determination of the appeal. He placed reliance on the following authorities: Ezekiel Mule vs H. Young & Company (E.A) Ltd [2019] eKLR, Re Global Tours & Travel Ltd HCWC No. 43 of 2000, Niazons (Kenya) Ltd vs China Road & Bridge Corporation (Kenya) Ltd Nairobi (Milimani) HCCC NO. 126 of 199, Kenya Tea Growers Association & Another vs Kenya Planters & Agricultural Workers Union Civil Appeal Nairobi NO. 72 of 2001 and David Omwenga & John Tkeleyio No. 149 of 2005 eKLR Court cited Butt vs Rent Restriction Tribunal (1982) eKLR.
 5. Learned Counsel advertent to the above principles urged this Court to bear in mind that in arguable appeal is not one that will necessarily succeed but one in which it raises triable issues and that is a legitimated expectation of the Appellant to be granted an opportunity before the appeals Court to canvass the issues at stake.
 6. It is only fair that an intended appellant who has filed a notice of appeal should be able to apply for a stay of execution to the Court which is going to hear the appeal as soon as possible and not have to wait until he has lodged his appeal to do so. Owing to the long delay in obtaining the proceedings of the High Court it may be many months before he could lodge his appeal. In the meantime, the execution of the decision of the Court below could cause him irreparable loss. There are three other reasons why



the word “appeal” must be given a wide meaning in rule 53. The first is that Order 41, rule 4 of the rules of the High Court provides that no appeal shall operate as a stay of execution except in so far as the Court appealed from may order and whether a stay is granted or not by the Court, the Court to which the appeal is preferred shall have the liberty on application being made, to consider such application and to make such order thereon as may seem just. That rule contemplates that an appeal must be in being before an application for stay can be entertained by the Court appealed from. An appeal either exists or it does not. It cannot exist in so far as the Court appealed from is concerned but not in regard to the Court of Appeal. It is customary for applications for stay to be made, to the Court appealed from at any rate, as soon as the notice of appeal is given. If this practice is right and there is accordingly an appeal for the purposes at least of enabling the Court appealed from to entertain an application for stay, there must equally be an appeal for a similar purpose in regard to the Court of Appeal. There is nothing in the High Court rules to suggest that an appeal means only an appeal lodged in the Court of Appeal. If it has such a meaning a litigant desirous of appealing would be unable under the rules (though not under the inherent powers of the Court) to obtain a stay either in the Court appealed from or in the Court of Appeal until several months after the decision and it is doubtful whether such an odd result was contemplated by the framers of the rules. See Odunga’s Digest on Civil case of Law and Procedures 3rd Edition Volume 9 page 72 Para [d] & [e]

7. I have therefore considered the matter in its entirety as pleaded by the Applicant/Appellant and in the circumstances there is need to consider and balance the interests of the parties, their respective legal positions within the fulcrum of *the Constitution* and Statute law on the right of appeal and safeguard the same. Why is this important in law? The Applicant/Appellant intends to exercise his undoubted right of appeal and in the event it was eventually to succeed it should not be faced with the situation where it is rendered nugatory.
8. As a consequence, in the interim and until the appeal is heard and disposed off there shall be stay of execution of judgement in Eldoret CMCC E266 of 2024 Angerich Wanjira (Suing as the Legal Representative and Administrator of the Estate of Charles Kabuthia Karanja (Deceased)-Vs-Peter Mirara Karanja. Secondly, the record of appeal shall be processed and filed within 30 days’ from today’s ruling. There shall be a status conference before the Deputy Registrar on 15th May 2026 for compliance.

DELIVERED, DATED AND SIGNED AT ELDORET VIA CTS THIS 4TH MAY 2026

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R. NYAKUNDI

JUDGE

