

IN THE REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT NAIROBI

ELC NO. 475 OF 2012

SHIPHRAH W. KABIAPLAINTIFF/APPLICANT

=VERSUS=

MWIKI CO. LTD & 3 OTHERS.....DEFENDANT/RESPONDENTS

RULING:

1. This is a ruling in respect of notice of motion dated 29th March 2017 brought by the Judgement debtor. The process of execution was issued and the judgement debtor's properties were proclaimed. The Judgement debtor moved to court seeking an order of stay of execution. The grounds upon which the applicant/judgement debtor seeks stay of execution is that the proclaimed goods are not registered in his name and that the Auctioneer has grossly exaggerated his fees.

2. This application first came before me on 29th March 2017 when I directed that it be served for inter-partes hearing on 8th May 2017. The date was however changed to 12th April 2017. Counsel for the parties requested that they be allowed to dispose of the application by way of written submissions. The respondents were to file their response to the application together with their submissions. As at 16th October 2017, submissions had not been filed forcing the court to give a date for ruling.

3. The application for stay was brought under the provisions of Order 22 Rule (1). Under this Rule, a court can grant stay if it is convinced that there is sufficient cause shown. In the instant case, the applicant/judgement debtor is contending that most of the proclaimed goods are registered in the names of his immediate family members. If this be the case, then the registered proprietors of the attached goods ought to have brought objection proceedings as provided for under the Civil Procedure Rules. I do not find any merit in this application which is hereby dismissed with no order as to costs.

It is so ordered.

Dated, Signed and delivered at **Nairobi** on this **19th** day of **December 2017**.

E.O.OBAGA

JUDGE

In the presence of;-

.....

Court Assistant: Hilda

E.O.OBAGA

JUDGE