

IN THE COURT OF APPEAL

AT NAIROBI

(CORAM: OKWENGU JA (IN CHAMBERS))

CIVIL APPLICATION NO. NAI 120 OF 2020

BETWEEN

GABRIEL NGUYO NGARI.....APPLICANT

AND

LUCY NJERI NGUYO.....RESPONDENT

(Being an application for certification as urgent Notice of Motion dated 14th *May* 2020 seeking stay of execution of the judgment and decree/order of the High Court of Kenya at Nairobi (**M. Kasango, J**) dated 28th *April, 2020* in *H. C. Milimani Commercial No. 231 of 2016*

RULING

[1] The applicant filed a notice of motion dated 14th May, 2020 seeking orders of stay of execution under **Rule 5(2)(b)** of the Court Rules. The motion was accompanied by a certificate and an affidavit in which the applicant's advocate **A. P. Ochieng Ogutu** urged the Court to certify the motion as urgent.

[2] The motion was placed before me for certification but upon considering the affidavit, I declined to certify the motion as urgent.

[3] By a letter dated 28th May, 2020, the applicant through his advocate applied to have the issue of urgency determined through inter parte hearing. Due to the Corvid-19 Pandemic, the parties were directed to file written submissions and the matter was placed before me to determine the issue of urgency *inter parte* on the basis of those written submissions.

[4] I have considered the written submissions that have been filed by each parties' advocate, and it is evident that the proceedings leading to the judgment sought to be stayed have been very acrimonious and have taken a long time. The applicant is apprehensive that the respondent will proceed to execute the judgment. The correspondences exhibited confirm that the respondent is an old lady who is ailing and is therefore anxious to reap the benefit of the judgment that was made in her favour. It is therefore in the interest of both parties that the motion be certified as urgent so that the motion is heard and the issue of execution resolved by this Court without undue delay.

[5] In the circumstances I certify the applicant's notice motion dated 14th May, 2020 as urgent. The motion may be given a hearing date and heard on priority.

Dated and delivered at Nairobi this 10th day of July, 2020.

HANNAH OKWENGU

.....

JUDGE OF APPEAL

I certify that this is a true *copy of the original*.

Signed

DEPUTY REGISTRAR