



**Kinyua v Mugambi (Environment and Land Appeal E051 of 2021)
[2024] KEELC 4452 (KLR) (29 May 2024) (Ruling)**

Neutral citation: [2024] KEELC 4452 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MERU
ENVIRONMENT AND LAND APPEAL E051 OF 2021**

CK NZILI, J

MAY 29, 2024

BETWEEN

GILBERT KINYUA APPELLANT

AND

PETER MUTETHIA MUGAMBI RESPONDENT

RULING

1. The court, by an application dated 26.2.2024, is asked to order the release of Kshs.200,000/= security for costs. The reasons, as contained in the supporting affidavit of Peter Mutethia Mugambi sworn on 26.2.2024, that the appeal was finalized on 26.1.2022, the appellant had been ordered to furnish security, which he did on 14.7.2021, costs of the appeal have been taxed at Kshs.208,975/= and that the said amount should be released to him to defray the costs assessed against the respondent.
2. When the application was served upon the firm of Kiogora Arithi Advocates on record for the respondent who was the appellant, it applied to cease acting for the appellants dated 26.10.2023. The respondent, therefore, appeared in person on 7.3.2024 during which the said law firm was discharged from acting in the matter. The respondent was given 14 days to respond to the application. At the writing of this ruling, no response had been filed.
3. Security for costs under Order 42 of the *Civil Procedure Rules* is for the due realization of the decree should the appeal not succeed. In this appeal, Kshs.200,000/= arose out of a conditional stay order granted on 3.5.2021, pursuant to an application dated 28.4.2021, by the respondent. No cause has been shown as to why the same should not be released to the successful party in the appeal, now that the costs were taxed by the Deputy Registrar at Kshs.208,975/= on 30.11.2023.
4. There is no reference filed against the taxation. The upshot is that I find the application with merits. It is hereby allowed with no order as to costs. The deposited cost shall be released to the respondent instead of the depositor.



**DATED, SIGNED, AND DELIVERED VIA MICROSOFT TEAMS/OPEN COURT AT MERU ON
THIS 29TH DAY OF MAY, 2024**

In presence of

C.A Kananu

Appellant

No appearance for defendants

HON. C K NZILI

JUDGE

