



**REPUBLIC OF KENYA
IN THE COURT OF APPEAL
AT KISUMU
CORAM: OMOLO, TUNOI & O’KUBASU, J.J.A.
CIVIL APPLICATION NO. NAI. 10 OF 2006**

BETWEEN

RICHARD AKWESERA ONDITI.....APPLICANT

AND

KENYA COMMERCIAL FINANCE CO. LTD.....RESPONDENT

(Application for stay of execution from a judgment of the High Court of Kenya at Kakamega (Tanui J.) dated 18th September, 2001

in

H.C.C.C. NO. 65 OF 1993)

RULING OF THE COURT

After the applicant had rested his submissions in support of his application for a temporary stay of execution of the judgment and decree pending his intended appeal, *Mr. Shivaji*, counsel for the respondent, however, informed the Court that he was prepared to concede the application and that he would not prematurely execute the decree.

We have considered the submissions of both parties and we think that in the interest of justice we should grant the application and issue an order of stay of execution pending the determination of the application for leave to file an appeal out of time. We so order. In doing so we take into account that we are not being asked to prevent the respondent from exercising its statutory power of sale. We so order. Costs in the intended appeal

MADE at KISUM this 31st day of MARCH, 2006.

R.S.C. OMOLO

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JUDGE OF APPEAL

P.K. TUNOI

.....

JUDGE OF APPEAL

E.O. O’KUBASU

.....

JUDGE OF APPEAL

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

DEPUTY REGISTRAR