



**IN THE COURT OF APPEAL**

**AT NAIROBI**

**CIVIL APPLICATION NO. 137 OF 2001 (UR. 75/2001)**

**K.H. OSMOND ..... APPLICANT**

**AND**

**DAIMA BANK LIMITED ..... 1ST RESPONDENT**

**WHITESTONE AUCTIONEERS (K) LTD. .... 2ND RESPONDENT**

**(Application for stay of execution in an intended appeal from the Judgment of the High Court of Kenya at Nairobi - Milimani (Justice Gacheche) dated 12th day of July, 2000**

**in**

**H.C.C.C. NO. 3062 OF 1997)**

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**RULING**

This is a hearing (inter partes) for certification of the Motion dated 28 March, 2001 as urgent under ***rule 47(5)*** of the Rules. It is based on a notice exercising statutory power of sale which expires at the end of the month. If the motion had been filed in the ordinary course it could well have been heard long before now. There is also a stay by the superior court which has not lapsed or been vacated. Nor am I satisfied that there is any imminent sale.

In all the circumstances, I am not satisfied that the said motion be certified as urgent. Costs to the Respondent in any event.

**Dated and delivered at Nairobi this 5th day of June, 2001.**

**A.A. LAKHA**

.....

**JUDGE OF APPEAL**

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

**DEPUTY REGISTRAR**