



**REPUBLIC OF KENYA**  
**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT**  
**AT MOMBASA**  
**CAUSE NUMBER 598 OF 2017**

**BETWEEN**

**OSIELO OKOTH O'KING**

**STEPHEN M. MULINGE**

**HARRY RANDU BANKS**

**JUMA WAZIRI KINGI.....CLAIMANTS**

**VERSUS**

**A CLAIM IN REM AGAINST THE OWNERS OF MOTOR**

**VESSEL NASIBU, NASIBU FISHING COMPANY LTD.....RESPONDENT**

*Rika J*

*Court Assistant: Benjamin Kombe*

*Wachira King'ang'a & Company Advocates for the Claimant*

*Oduor Siminyu & Company Advocates for the Respondent*

---

**RULING**

1. *Ex parte* Judgment was delivered in favour of the Claimants on 15<sup>th</sup> March 2019.
2. An Application dated 30<sup>th</sup> April 2019, filed by the Respondent, seeking to set aside the Judgment, was declined in a Ruling delivered on 13<sup>th</sup> June 2019.
3. The Respondent filed a Notice of Appeal dated 24<sup>th</sup> June 2019, expressing its intention to appeal against the Ruling.
4. On 16<sup>th</sup> July 2013, the Respondent filed an Application asking for leave to lodge a Notice of Appeal out of time, with respect to the *ex parte* Judgment of 15<sup>th</sup> March 2019. The Application seeks also, an order staying execution of Judgment.
5. Supported by the Affidavit of Mumin Ali Mumin sworn on 16<sup>th</sup> July 2019, the Application rehashes similar grounds in support, to the grounds raised in the Application dated 30<sup>th</sup> April 2019.
6. Parties agreed to have the latest Application considered and determined through written Submissions.
7. The Court finds no reason to justify grant of leave to file Notice of Appeal out of time, or to grant an order for stay of execution. The record shows adequate opportunity has been granted to the Respondent to state its position, at every turn in the proceedings. Orders of stay

of execution of Judgment have issued in the past, and further issue, would deny the Claimants their right to fair and expeditious administration of justice. The Respondent opted not to participate in the proceedings.

**IT IS ORDERED:-**

*(a) The Application filed by the Respondent on 16<sup>th</sup> July 2019 is rejected.*

*(b) Costs to the Claimants.*

**Dated and delivered at Mombasa this 25<sup>th</sup> day of October, 2019.**

**James Rika**

**Judge**