



REPUBLIC OF KENYA



KENYA LAW
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**Njoroge v Muturi (Civil Appeal E260 of 2022)
[2025] KEHC 6176 (KLR) (30 April 2025) (Ruling)**

Neutral citation: [2025] KEHC 6176 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
CIVIL APPEAL E260 OF 2022
DO CHEPKWONY, J
APRIL 30, 2025**

BETWEEN

DANIEL GICHUI NJOROGE APPELLANT

AND

MIRIAM NJERI MUTURI RESPONDENT

RULING

1. The matter is scheduled for interparties hearing of the Notice of Motion application dated 2nd April, 2025 in which the Applicant has sought for:-
 - a. The Honourable Court to be pleased to order for the release of Kshs.430,430/= deposited in court to the Firm of Fred Mwihi & Co. Advocates and for the same to be deposited in the Firm's Co-operative Bank Account No.01148xxxxxxx domiciled at University Way Branch.
 - b. The costs of the application to be provided for.
 - c. The Honourable Court be pleased to make any other or further orders as the circumstances and interest of justice herein may require.
2. The application is premised on the grounds set out in its face and Supporting Affidavit of Miriam Njeri Muturi sworn on 2nd April, 2025. The gist of it being that as a condition for the grant of stay of execution orders, the Appellant were directed to deposit the entire decretal amount in court as security pending the hearing and determination of the appeal. The security was as deposited in the sum of Kshs.430,430/= by the Appellant/Respondent on 1st December, 2023.
3. On 27th March, 2025, the Appellant/Respondent was found out to have complied with the court's directions of filing a Record of Appeal and the appeal was thus dismissed for want of prosecution.



4. According to the Respondent/Applicant herein, he has a valid Judgment which the Appellant/Respondent has not made any attempt to satisfy and also failed to comply with the conditions set by court on hearing of the appeal, hence its dismissal.
5. The application was served upon the Appellant/Respondent's counsel alongside the directions as confirmed by the Affidavit of Service dated 8th April, 2025. The Appellant/Respondent and or counsel have not filed any response or attended court for the interparties hearing. In view of this, the application is hereby deemed as unopposed.
6. This Court therefore proceeds to allow the Notice of Motion application dated 2nd April, 2025 on the following terms:-
 - a. That the sum of Kenya Shillings Four Hundred and Thirty Thousand, Four Hundred and Thirty Shillings, (Kshs.430,430/=) deposited in court as security by the Appellant/Respondent be released to the Firm of Fred Mwhia & Co. Advocates and the same to be deposited in the said Firm's Co-operative Bank Account No.01148xxxxxxxxx domiciled at University Way Branch.
 - b. The costs of the application to be borne by the Appellant/ Respondent.

It is so ordered.

RULING DELIVERED VIRTUALLY, DATED AND SIGNED AT KIAMBU THIS 30TH DAY OF APRIL., 2025.

D. O. CHEPKWONY

JUDGE

In the presence of:

Mr. Mwhia counsel for Respondent/Applicant

No appearance by and for counsel for the Applicant

Court Assistant - Martin

