



REPUBLIC OF KENYA



**KENYA LAW**  
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**Wachira & another v Menja (Civil Appeal E015 of 2025)  
[2025] KEHC 5397 (KLR) (30 April 2025) (Ruling)**

Neutral citation: [2025] KEHC 5397 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MACHAKOS  
CIVIL APPEAL E015 OF 2025**

**EN MAINA, J**

**APRIL 30, 2025**

**BETWEEN**

**JOYCE WANGUI WACHIRA ..... 1<sup>ST</sup> APPELLANT**

**PADDY DISTRIBUTORS LTD ..... 2<sup>ND</sup> APPELLANT**

**AND**

**SAMUEL KABUE MENJA ..... RESPONDENT**

**RULING**

1. This ruling relates to the Notice of Motion dated 28<sup>th</sup> January 2025. The motion seeks a stay of execution of the judgement of the Small Claims Court delivered on 16<sup>th</sup> January 2025 in SCCC No. E1313/2024 pending the determination of the application interpartes and pending the hearing and determination of the appeal.
2. The motion is opposed. The same was canvassed by way of written submissions.
3. I have carefully considered the application, the replying affidavit and the submissions from both parties.
4. Stay of execution is governed by Order 42 Rule 6 (1) & (2) of the Civil Procedure Rules which provides that an application for an order for stay of execution must fulfill the following conditions: - That substantial loss may result unless the order is made. That the application has been made without unreasonable delay. That the applicant is willing to deposit such security as the court shall order for the due performance of such decree as may ultimately be binding on him.
5. The Applicant seeks to stay execution of the judgement of the Small Claims Court No. E1313/2024 pending hearing of the appeal preferred against that judgement. The Judgement relates to a motor vehicle damage claim in a road traffic accident where the Small Claims Court awarded Kshs 552,020 as damages plus cost and interest of the claim from the date of filing of the claim.



6. I am satisfied that the appeal filed raises triable issues. The applicant has prima facie demonstrated that he is likely to suffer substantial loss. That the respondents can institute execution proceedings against the applicant which will render the appeal nugatory if successful. The application has been filed timeously. I find that this application has merit.
7. Accordingly, the application is allowed and stay of execution pending appeal is granted on condition that the entire decretal sum is deposited either in court or in an interest earning account in the joint names of Counsel for the parties within 30 days of this ruling.
8. The Applicant shall bear the costs of this application.  
Orders accordingly.

**RULING SIGNED, DATED AND DELIVERED VIRTUALLY THIS 30<sup>TH</sup> DAY OF APRIL, 2025.**

**E. N. MAINA**

**JUDGE**

In the presence of:

Ms Chepwogen for Maluki for the Respondent

Mr. Asiyo for Nzavi for the Appellant/applicant

Miriam – Court Assistant

