



Nyabando & another (Administrators of the Estate of Brian Nyabando Makori - Deceased) v CIC Insurance Co Limited & another (Civil Appeal E011 of 2023) [2025] KEHC 5385 (KLR) (29 April 2025) (Ruling)

Neutral citation: [2025] KEHC 5385 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
CIVIL APPEAL E011 OF 2023
SM MOHOCHI, J
APRIL 29, 2025**

BETWEEN

**ERIC MAINA NYABANDO 1ST APPELLANT
ANTHONY MAKORI NYAMOCHENGA 2ND APPELLANT
ADMINISTRATORS OF THE ESTATE OF BRIAN NYABANDO MAKORI -
DECEASED**

AND

**CIC INSURANCE CO. LIMITED 1ST RESPONDENT
NEW MEGA (AFRICA) LIMITED 2ND RESPONDENT**

RULING

1. I have considered the application for stay of proceedings in Nakuru C. M's Court Civil Suit No. E242 of 2023 pending hearing and determination of the appeal herein.
2. I have considered the 1st Respondent's response and written submissions and I am persuaded to find that:
 - i. The Applicants sought my discretionary jurisdiction.
 - ii. This Court in exercise of its discretion has to weigh the pros and cons of stopping the declaratory suit to which the Applicants had unsuccessfully sought to be enjoined.
 - iii. There is need for expedite hearing and disposal of all matters and the declaratory suits are principally for the participation of the insured.
 - iv. Stay of proceedings is a grave judicial matter and in this instance the Plaintiffs' right to access justice cannot be delayed at the behest of a 3rd party with no direct rule in the transaction.



- v. I am unpersuaded as to whether the appeal is arguable.
 - vi. In balancing the right of the parties I am inclined to find in favour of hearing this substantive appeal in an expedite fashion without any need to stay the proceedings in the lower court.
 - vii. There is a record of appeal dated 20th May, 2024 and the parties may take directions on the disposal of the application.
 - viii. I am constrained to award the costs to the Respondents to be in the cause.
3. It is apparent that the Applicants have an active suit for compensation in Nakuru CMCC No. E914 of 2022 of which no stay of proceedings has been sought.
 4. This Court finds the application dated 1st March, 2024 to be devoid of merit and the same is dismissed.

RULING READ, SIGNED AND DELIVERED AT NAKURU THIS 29TH DAY OF APRIL, 2025

MOHOCHI. S. M.

JUDGE

