



**Kaisut Hardware v Kimani & another (Miscellaneous Civil Application
E145 of 2023) [2024] KEHC 387 (KLR) (25 January 2024) (Ruling)**

Neutral citation: [2024] KEHC 387 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
MISCELLANEOUS CIVIL APPLICATION E145 OF 2023
TW CHERERE, J
JANUARY 25, 2024**

BETWEEN

KAISUT HARDWARE APPLICANT

AND

FREDRICK FARRAH KIMANI 1ST RESPONDENT

BLUE NILE (EAST AFRICA) LIMITED 2ND RESPONDENT

RULING

1. By a notice of motion dated 25th August, 2023, filed in HCCA E080 of 2023, Applicant and 2nd Respondent sought orders for stay of execution of judgment and decree in Meru CMCC 308 of 2019. On 30th November, 2023, this court directed the 1st Respondent to file his respondent and fixed the application for mention on 25th February, 2024 to take a ruling date.
2. While the application in HCCA E080 of 2023 is still pending, Applicant herein instructed another advocate who without disclosing the existence of the application pending in HCCA E080 of 2023 filed a similar application dated 20th December, 2023 seeking same orders as the ones in the pending application.
3. The court granted a temporary stay of execution of judgment and decree in Meru CMCC 308 of 2019 on condition that Applicant deposits ½ of the decretal sum in court. I notice that the Applicant has indeed deposited the security as ordered.
4. I am perturbed by the craftiness employed by the Applicant herein to obtain a favorable order in his favour the same having been denied in HCCA E080 of 2023.
5. I would have struck out this matter the Applicant is no doubt guilty of abusing the court process but I shall instead impose stringent conditions of stay as follows:



1. The temporary order of stay of execution of judgment and decree in Meru CMCC 308 of 2019 issued on 20th December, 2023 is revised in the following terms:
 - a. There shall be a stay of execution of judgment and decree in Meru CMCC 308 of 2019 upon the Applicant depositing the balance of the decretal sum with the court within 7 days from today's date
 - b. Respondent will be at liberty to execute in the event that the Applicant does not comply
2. Mention on 25th February, 2024 to confirm compliance with these orders and for direction concerning the disposal of the appeal.
3. Applicant shall bear its costs

DATED IN MERU THIS 25TH DAY OF JANUARY 2024

WAMAE. TW. CHERERE

JUDGE

Appearances

Court Assistant – Kinoti/Munene

For Applicant - N/A for Muchoma Law Advocates

For Respondent – N/A for Munene, Wambugu & Kiplagat Advocates

