



**Wanyonyi v Mwangi (Civil Appeal E124 of 2023)
[2024] KEHC 410 (KLR) (25 January 2024) (Ruling)**

Neutral citation: [2024] KEHC 410 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
CIVIL APPEAL E124 OF 2023
RE ABURILI, J
JANUARY 25, 2024**

BETWEEN

JESCA TAAKA WANYONYI APPELLANT

AND

DAVID MWANGI RESPONDENT

(Arising from the Judgment and decree of the Adjudicator Kisumu Small Claims Court in Kisumu, SCCC No. E0149 of 2023 delivered on the 8th February 2023)

RULING

1. As the parties agree that they have reached a settlement in the lower court on how to settle the decrees in the series matters and that this appeal and all the other appeals in the series matters be marked as withdrawn, I hereby mark this appeal and all the other appeals in the series files being HCCA Nos. E125, E121, E123, E118, E119, E122 and E120 of 2023 be and are hereby wholly withdrawn.
2. This order shall apply to all the other series file matters which are due for mention today.
3. On costs, the respondent seeks for costs of the appeals while the Appellant prays to be excused from paying costs as the parties have agreed to settle the matter amicably.
4. Costs are in the discretion of the court. The respondent has had to vigorously defend the application for stay of execution of decrees pending appeal in these series matters where the Appellant was obviously being dishonest by claiming that she was bankrupt in order to evade settling the decrees.
5. Time and money have been expended by the respondents in defending the applications for stay of execution pending appeal, which applications in the series files were all dismissed with costs on November 29, 2023.
6. In the absence of any consent on costs, I find that the respondents cannot be denied costs of their labour.



7. I shall however exercise discretion and order that the appellant shall pay the respondent in each of the appeal files which are hereby marked as wholly withdrawn a sum of Kshs.10,000 on each file totaling Kshs.80,000 within the next sixty (60) days of the date hereon in default, the respondents are at liberty to execute for recovery in this file to cover costs for all the series files and the said files are hereby consolidated for purposes of costs.
8. Accordingly, save for the costs as herein awarded and quantified by this court, this file and all the series files being HCCA Nos. E118, E119, E120, E121, E122, E123 and E125 of 2023 are marked as closed.
9. Ruling to be typed and copies placed in each of the series files.
10. I so order.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 25TH DAY OF JANUARY, 2024

R. E. ABURILI

JUDGE

