



**IN THE COURT OF APPEAL**

**AT NAIROBI**

**(CORAM: OMOLO, AKIWUMI & PALL JJ.A.)**

**CIVIL APPLICATION NO.NAI 298 OF 1996 (113/96 UR)**

**BETWEEN**

**FRANCIS KABAA.....APPLICANT**

**AND**

**NANCY WAMBUI**

**JANE WANJIRU.....RESPONDENTS**

(Application for stay of execution in an intended appeal from Ruling or Order of the High Court of Kenya at Nairobi (Justice Sheikh Amin) dated 14<sup>th</sup> September, 1994

In

H.C.C.C.NO. 206 OF 1994)

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**RULING OF THE COURT**

The application according to the notice of motion is to stay the order of Amin, J. in which he dismissed the applicant's suit then before him. Before us the applicant says that what he wants is a stay of an order that he should pay costs. But this is not really what the order of Amin, J. was all about. In any case, even if that were so, the appellant, if he succeeds in his appeal, would be refunded his costs. Furthermore, we do not think that stay can be granted in respect of costs. The appellant has also not given any cogent reason why he should be granted stay. In all the circumstances, the order that commends itself to us is that the application be refused and it is hereby so ordered. The applicant will pay the costs of this application.

Dated and delivered at Nairobi this 11<sup>th</sup> day of December, 1996

**R.S.C OMOLO**

.....

**JUDGE OF APPEAL**

**A.M. AKIWUMI**

.....

**JUDGE OF APPEAL**

**G.S. PALL**

.....

**JUDGE OF APPEAL**

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a true copy of the original.

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