

**THE REPUBLIC OF UGANDA  
IN THE HIGH COURT OF UGANDA AT KAMPALA  
(EXECUTION DIVISION)**

5 **MISCELLEANOUS APPLICATION NO. 210 OF 2016  
(ARSING FROM EXECUTION MIS. APPLICATION NO. 161 OF 2016)  
(ARISING FROM CIVIL SUIT NO. 052 OF 2012)**

**NDAWULA RONALD ..... APPLICANT**

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**VERSUS**

**HIRAA TRADERS (U) LTD..... RESPONDENT**

**BEFORE LADY JUSTICE FLAVIA SENOGA ANGLIN**

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**RULING**

This is an application for stay of execution of the judgment and decree pending the disposal of the appeal against the judgment. The application was made under the provisions of law cited there under and is supported by the affidavit of the Applicant.

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There is also a notice of appeal filed on 09.11.15.

An affidavit in reply was filed by the Respondent on 18.03.16 and affidavit in rejoinder was filed on 04.04.16.

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The matter was called for hearing on 05.04.16 and that is when the affidavit in rejoinder was served on Counsel for the Respondent, though be it with court's leave.

30 It appeared from the discussion that ensued between both Counsel that Counsel for the Respondent would not object to the application if it were allowed on condition that the sum of

Shs. 143,000,000/- admitted by the Applicant to be due to the Plaintiff / Respondent be deposited in court.

However, Counsel for the Applicant sought adjournment to enable him bring to the attention of court a ruling that indicates that only 30% and not the whole amount should be paid to court as security for costs.

Counsel was allowed time to bring the authority and it was also agreed that court should go ahead to write the ruling.

Having gone through the application, the supporting affidavit, the affidavit in reply and the affidavit in rejoinder, and bearing in mind the decision relied upon by Counsel for the Applicant and the fact that Counsel for the Respondent did not have objection to the application if it was conditional, this court hereby allows the application for stay of Execution of the decree and judgment on condition that the Applicant pays security for due performance of the decree.

It is clear from the decision relied upon by Counsel for the Applicant that the Supreme Court stated that ***“it would be unfair to order the Applicant to pay the whole decretal sum ..... in a matter where an appeal may succeed and where the Applicant resides within jurisdiction. The court should decide what is reasonable otherwise if the entire amount were to be paid, it would do away with the need for the Appeal”***- See Margaret Kato vs. Nuulu Nalwoga SC CA 11/2011.

In the present case the amount sought to be deposited is not the whole decretal sum of Shs. 243,000,000/-.

What the Respondent seeks to be deposited as security is the Shs. 143, 000,000/- which the Applicant /Defendant admitted he owed the Plaintiff. Thereafter after, the Applicant/Defendant can appeal against the rest of the judgment / sums awarded together with the interest.

It is the finding of this court that the Shs. 143,000,000/- is a reasonable sum more so as it was admitted and brings the case in conformity with the guidance of the Supreme Court in the case cited above.

- 5 For all those reasons, the application is allowed on condition that the Applicant deposits the Shs. 143,000,000/- in court as security for due performance of the decree within two weeks from the date of this ruling.

Costs of the application are granted to Respondent.

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**Flavia Senoga Anglin**

**Judge**

15 **13.04.16**