



**Hotel v Ngethe & another (Environment & Land Case
E099 of 2021) [2022] KEELC 66 (KLR) (19 May 2022) (Ruling)**

Neutral citation: [2022] KEELC 66 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT & LAND CASE E099 OF 2021**

OA ANGOTE, J

MAY 19, 2022

BETWEEN

AMELIA KAREN HOTEL APPELLANT

AND

ESTATE OF KIBUBA NGETHE 1ST RESPONDENT

**LOISE WANGUI KIBUBA (SUED AS THE PERSONAL REPRESENTATIVES OF
THE ESTATE OF KIBUBA NGETHE 2ND RESPONDENT**

RULING

1. Before this Court for determination are two applications, being the Appellant's Notice of Motion application dated 22nd December, 2021 and the Respondents' application dated 10th February, 2022.

The Appellants' application dated 22nd December, 2021

2. This application seeks the following orders;
 - a. That the Landlord/Respondent be temporarily prohibited and restrained from unlawfully evicting the Tenant and/or distressing the Tenant/Applicants property for Rent pending the hearing and determination of the Appeal.
 - b. That the Court be pleased to stay execution of the Ruling and Orders of the Learned Vice Chairlady Honourable Patricia May in Nairobi Business Premises Rent Tribunal Case No 217 of 2021; Amelia Karen Hotel vs Rahab Kibuba & Anor pending the hearing and determination of the Appeal.
 - c. That the Landlord/Respondent and their agents including and not limited to Chador Auctioneers be and are hereby compelled to return trade goods repossessed from the tenants premises on 16th July,2021 and listed on the Chador Auctioneers Schedule of repossessed



property No 2313 and compensate for the repossessed alcoholic stock amounting to Kshs 269,069.19.

- d. That the OCS Karen police does enforce compliance with these orders.
 - e. That the costs of the Application be borne by the Respondent.
3. The Application is premised on the grounds on the face of the Motion and supported by the Affidavit of Leonard Kangethe Wanjiku, the Director of the Appellant, who deponed that the Appellant is a tenant on part of the Respondents' property known as L.R No 1159/67 and that pursuant to an oral agreement with the Respondent, the Appellant invested over Kshs 40,000,000 to develop the rented premises as the Respondent was financially incapable of doing so.
 4. According to the Appellant's Director, it was a further term of the oral agreement that the Appellant would recoup his profits in about 15 years of occupation of the property; that the Respondents' investment on the suit property was to the tune of Kshs 9,000,000 which was depleted in constructing the foundation and shell of the 1st floor of the suit property and that the Appellant completed the construction and made the relevant application to change the user of the premises to a hotel.
 5. According to the Appellant's Director, the Respondents have now reneged on their part of the Agreement and want to evict the tenant without just notification and that the Appellant does not owe the Respondents any rent.
 6. According to the Deponent, the Respondents issued the Appellant with a defective eviction notice contrary to the provisions of Section 4(2) of the Landlord & Tenants Act and that the Appellant filed a Reference at the Business Premises Rent Tribunal vide case No 217 of 2021 challenging the legality of the eviction, which Reference was dismissed on a technicality due to the Appellant's failure to attend the hearing on 10th December, 2021.
 7. It was the deposition of the Appellant's Director that the Appellant filed an application seeking to reinstate the Reference on 14th December, 2021 which the Respondent responded to by an Affidavit sworn by one Susan Njeri, a stranger to the suit and that the application was dismissed in its entirety on 22nd December, 2021.
 8. It was deponed that the Appellant had filed another Reference together with an application dated 17th December, 2021 in Nairobi BPRT No E784 of 2021 seeking to prohibit the Respondent from evicting or distressing the Appellants' property for rent pending reassessment of rent which application was certified urgent and preservatory orders issued by Hon Gakuhi Chege and that unbeknownst to the Appellant, the Landlord filed an application dated 20th December, 2021 seeking to stay, vary and/or set aside the aforesaid interim orders which were set aside ex-parte vide the ruling of 22nd December, 2021.
 9. According to the Appellants Director, both the dismissal of Reference No 217 of 2021 and the setting aside of the preservatory orders in E874 of 2021 were done in the Appellants' absence thus infringing on its rights to natural justice; that on 16th July, 2021, the Respondent illegally sent Chador Auctioneers who entered the Appellant's premises and made away with trade goods and that the interests of justice dictate that the application be allowed.
 10. In response to the application, the 1st Respondent deponed that the tenant filed a Reference in the Tribunal on 2nd March, 2021 which Reference was dismissed on 10th December, 2021 for non-attendance; that the Tribunal issued an order allowing the Respondent to proceed with levying of distress which had already began and that the Appellant filed an application seeking to stay the execution of the aforesaid orders which application was disallowed.



11. It was deponed that the Appellant filed another Reference being Nairobi BPRT No E784 of 2021 which is pending before the Tribunal; that the Appellant is enjoying orders barring their eviction; that the said Nairobi E784 of 2021 was filed on account of the same notice to vacate issued on 8th February, 2021 and that the Appellant further instituted the present Appeal against the decision of the Tribunal in Nairobi BPRT 217 of 2021.
12. It is the Respondent's case that the Appellant is still in occupation and owes rent for more than 2 years which now amounts to Kshs 16,186,500; that no sufficient cause has been established warranting the grant of the orders of stay; that the Appellant has continuously failed to indicate their intention to offer security and that the Appellant is enjoying occupation and running the hotel business while they have refused to pay rent despite several orders by the Tribunal.
13. The 1st Respondent finally deponed that the Appellant is concurrently litigating in the Tribunal and in this court, which constitutes an abuse of court process; that the Appellant has no known assets as they have been removing items from the premises in an attempt to defeat the levying of distress and that the Respondents are concerned that they will not be in a position to recover their costs from the Appellant.

The Respondents' application dated 10th January, 2022

14. In the application dated 10th January, 2022, the Respondents are seeking for the following orders;
 - i. That the Honourable Tribunal do hereby issue an order directing the Tenant/Appellant to deposit the sum of Kshs Sixteen Million (Kshs 16,186,500/=) that was due and owing to the Respondents for rent up to the first quarter of the year 2022, i.e March, 2022, or any other sum the court deems fit, into a joint interest earning account to be held by the corresponding firm of Advocates within 14 days thereof pending the hearing and determination of the Appeal.
 - ii. Any other order that this Honourable Court deems fit and just to grant in the circumstances.
 - iii. Costs of this Application be provided.
15. The application is based on the grounds on the face of the Motion and supported by the Affidavit of the 1st Respondent who deponed that an order was issued allowing the Respondents to proceed with levying distress for rent arrears; that despite seeking to Appeal against the said Ruling, the Appellant has not paid rent since June 2020 and that the sum of Kshs 16,186,500 is due and owing.
16. It was deponed by the Respondent that the Appellant has no known assets and will not be able to pay rent arrears at the end of the Appeal due to the lack of good faith on its part; that the Respondents depend on the premises to earn a living and that the Appellants failure to pay is prejudicial to them.
17. In response, the Appellant, through its Director, deponed that the Appellant is not only a tenant but an investor in the premises having constructed a substantial portion of the same when the Respondent run out of funds after constructing the base; that the construction was pursuant to an oral agreement whereby the Appellant was to recoup its investment through the rent payable until a complete setoff was met and that the Appellant customized the premises into a hotel and after completing the 1st and 2nd floor, it obtained the relevant licenses.
18. The Appellant deponed that contrary to the terms of their Agreement, the Respondents have failed to demolish slum like structures within the premises, allowed a wines and spirits shop thereon and have refused to allow the Appellant set up a perimeter fence all of which negatively affect the Appellant. It was deposition of the Appellant's Director that they cannot be expected to pay premium rent in the



circumstances; that the hotel has moving assets of Kshs 10,000,000 and that the premises is currently valued at Kshs 98,000,000.

19. The 1st Respondent, through a Supplementary Affidavit, asserted that the terms with respect to rent were set out in Clause 1(a) of the Lease pursuant to which the Appellant owes the Respondent Kshs 16,186,500; that whereas the Lease has not been signed or executed, the parties began implementing its terms and that no objection has ever been raised with respect to the agreeable rent.
20. According to the 1st Respondent, parties have been negotiating on the terms of the Lease; that vide a letter of 7th November, 2019, the Appellant responded to the draft lease having adjusted the rental terms of the same; that vide the letters of 27th July, 2020 and 25th February, 2021 the Appellant acknowledged the amount of rent due to the Respondent and that the allegations of interference with the premises are unwarranted.
21. It was deponed that the Appellant not being the registered proprietor of the property cannot purport to make demands seeking the eviction of other occupants on the premises; that the Appellant, other than enjoying occupation without paying rent, has opened another business on the premises known as Sterleon Hotel Riverside and that the Respondents are strangers to the Appellant's alleged investment of Kshs 98,000,000 which sum has in any event been mutating from Kshs 20,000,000 as averred.
22. Vide a Supplementary Affidavit, the Appellant through its Executive Director, deponed that the Appellant is ready and willing to comply with all the terms and conditions set by this court as to security for the grant of stay sought in this matter; that a constructive trust was created when the Appellant invested in the construction of the Hotel premise and that the Respondent should be estopped from evicting it pending adequate and just compensation for the development and goodwill of the Hotel.
23. It was deponed that the Appellant is ready and willing to release the suit premises back to the Respondent on fair, just and equitable terms as to adequate compensation for the development that the Appellant has made with the sanction, goodwill and consent of the Respondents.

Submissions

24. The Appellant's advocate submitted that the Appellant has an arguable Appeal which seeks to set aside the Tribunal's decision dismissing a Reference seeking relief from an unlawful eviction notice issued by the Respondents dated 8th February, 2021 and that the aforesaid notice contravened Section 4 of the [Landlord and Tenant \(Shops, Hotels and Catering Establishments\) Act](#).
25. It was submitted by the Appellant's advocate that the decision of the Hon Vice Chair dismissing the Appellants' amended application to reinstate the Reference was occasioned by a clear misapprehension of the law and facts and that the operative law for stay of execution pending appeal is provided for under order 42 rule 6(2) of the [Civil Procedure Rules](#) 2010.
26. Counsel submitted that the Court of Appeal in [Butt vs Rent Restriction Tribunal](#) [1979] eKLR set out the considerations by the court before the grant of stay orders; that there has been no delay in filing the present application; that the Appellant is a controlled Tenant and that if the stay is not granted, the Respondents may proceed to evict the Appellant before the appeal is heard and determined.
27. On the issue of security, it was submitted that security must be one which shall achieve due performance of the decree which might ultimately be binding on the Applicant. Reliance in this regard was placed on the case of [Simba Coach Limited v Kiriiyu Merchants Auctioneers](#) [2019] eKLR.
28. The Appellant's counsel submitted that the Appellant has invested in the demised premises; that the amount of rent computed as due and owing has not been described by the Respondents as enough



to offset the investment made on the suit property and that the demised premises without the land is valued at Kshs 98,000,000. According to counsel, the security available is the investment of more than Kshs. 40,000,000 by the Tenant on the suit land now valued at Kshs. 98,000,000.

29. The Respondents' advocate submitted that as espoused by the Court of Appeal in *Visbram Ravji Halai v Thornton & Turpin* Civil Application No. Nairobi 15 of 1990 [1990] KLR 365, the High Court's jurisdiction to grant orders of stay of execution pending appeal under Order 42 rule 6 of the Civil Procedure Rules is fettered by three conditions namely, establishment of a sufficient cause, satisfaction of substantial loss and the furnishing of security.
30. It was submitted that what constitutes sufficient cause is a matter of fact dependent on the circumstances of the case as explained by the Indian Supreme Court in the case of *veena-bharti-sc-interpreted-the-grounds-on-which-an-ex-parte-Parimal v Veena* as well by the Court of Appeal in the case of *Wilson Cheboi Yego v Samuel Kipsang Cheboi* [2019] eKLR and that the Appellant has not demonstrated sufficient cause as its entire application is founded on unconfirmed statements that lack proof.
31. Counsel submitted that despite seeking to Appeal against the Ruling of the Tribunal, the Appellant is in rent arrears of Kshs. 16,186,500 and that the Respondent is suffering substantial loss as the Appellant continuously occupies the premises. Counsel cited the case of *Century Oil Trading Company Ltd v Kenya Shell Limited* [2008] eKLR where it was held that where execution of a money decree is sought to be stayed, in considering whether the applicant will suffer substantial loss, the financial position of the Applicant and that of the Respondent becomes an issue.
32. With respect to the question of security, it was submitted that the Appellant has continuously failed to indicate their readiness or proof that they are ready and willing to offer security and that the issue of deposit of security for due performance of decree is not a matter of willingness by the Applicant but for the court to determine.

Analysis & Determination

33. Having carefully considered the two applications, the Affidavits in support and opposition thereto and the rival submissions by the parties, the issues that arise for determination are:
 - i. Whether the Appellant has satisfactorily discharged the conditions warranting the grant of stay of execution pending Appeal.
 - ii. Whether the Application dated 10th February, 2022 for security is merited.
34. As correctly submitted by the parties, the law governing the grant of stay of execution pending appeal is Order 42 Rule 6 of the Civil Procedure Rules, the relevant part of which states as follows:
 - (1) No appeal or second appeal shall operate as a stay of execution or proceedings under a decree or order appealed from except appeal case of in so far as the court appealed from may order but, the Court appealed from may for sufficient cause order stay of execution of such decree or order, and whether the application for such stay shall have been granted or refused by the court appealed from, the court to which such appeal is preferred shall be at liberty, on application being made, to consider such application and to make such order thereon as may to it seem just, and any person aggrieved by an order of stay made by the court from whose decision the appeal is preferred may apply to the appellate court to have such order set aside.
 - (2) No order for stay of execution shall be made under sub rule (1) unless—



- (a) the court is satisfied that substantial loss may result to the applicant unless the order is made and that the application has been made without unreasonable delay; and
- (b) such security as the court orders for the due performance of such decree or order as may ultimately be binding on him has been given by the applicant.”

35. In the case of *Halai & another v Thornton & Turpin (1963) Ltd* [1990] eKLR the Court of Appeal held inter-alia:-

“The Superior Court’s discretion to order a stay of execution of its order or decree is fettered by three conditions. Firstly, the applicant must establish a sufficient cause, secondly the court must be satisfied that substantial loss would ensue from a refusal to grant a stay and thirdly the applicant must furnish security. The application must of course be made without unreasonable delay.”

36. It is evident from the above provisions and the cited authority that the grant of orders of stay of execution are subject to the court’s discretion, the court being guided in this regard by the provisions of Order 42 rule 6 of the Civil Procedure Rules. The question of how the court should exercise this discretion was extensively discussed by the Court of Appeal in *Butt v Rent Restriction Tribunal* [1982] KLR 417 who stated thus;

1. The power of the court to grant or refuse an application for a stay of execution is a discretionary power. The discretion should be exercised in such a way as not to prevent an appeal.
2. The general principle in granting or refusing a stay is; if there is no other overwhelming hindrance, a stay must be granted so that an appeal may not be rendered nugatory should that appeal court reverse the judge’s discretion.
3. A judge should not refuse a stay if there are good grounds for granting it merely because in his opinion, a better remedy may become available to the applicant at the end of the proceedings.
4. The court in exercising its discretion whether to grant [or] refuse an application for stay will consider the special circumstances of the case and unique requirements. The special circumstances in this case were that there was a large amount of rent in dispute and the appellant had an undoubted right of appeal.
5. The court in exercising its powers under Order XLI rule 4(2)(b) of the Civil Procedure Rules, can order security upon application by either party or on its own motion. Failure to put security for costs as ordered will cause the order for stay of execution to lapse.”

37. The court is alive to the fact that exercising its discretion hereunder, it should always opt for the lower rather than the higher risk of injustice. This was persuasively stated by Warsame, J (as he then was) in *Samvir Trustee Limited v Guardian Bank Limited* [2007] eKLR where he expressed himself as hereunder:

“...The Court in considering whether to grant or refuse an application for stay is empowered to see whether there exist any special circumstances which can sway the discretion of the court in a particular manner. But the yardstick is for the court to balance or weigh the scales of justice by ensuring that an appeal is not rendered nugatory while at the same time ensuring that a successful party is not impeded from the enjoyment of the fruits of his judgment. It is a fundamental factor to bear in mind that, a successful party is prima facie entitled to the fruits of his judgment; hence the consequence of a judgment is that it has defined the rights of a party with definitive conclusion. The respondent is asserting that matured right against the applicant/defendant...The overriding objective of the court is to



ensure the execution of one party's right should not defeat or derogate the right of the other. The Court is therefore empowered to carry out a balancing exercise to ensure justice and fairness thrive within the corridors of the court..."

38. The Motion herein relates to the Ruling and Orders of the Vice Chairlady, (Patricia May) in Nairobi BPRT Case No 217 of 2021 delivered on the 22nd December, 2021.
39. By way of a brief background, the Appellant herein instituted a Reference against the Respondents challenging the eviction notice issued against it. When the matter came up for hearing on 10th December, 2021, the Appellant was not present and the Reference was dismissed. The Appellant filed an application seeking to reinstate the Reference, which application was equally dismissed. It is this dismissal of the Defence that the Appellant seeks to Appeal against.
40. The court will now discuss whether the Applicant has met the prerequisites to warrant an order of stay of execution pending appeal. The aspect of sufficient cause that should be established by an applicant was discussed in the case of *Antoine Ndiaye v African Virtual University* [2015]eKLR, where the learned Gikonyo J. persuasively opined as follows;

“The relief of stay of execution pending appeal is governed by Order 42 Rule 6 of the Civil Procedure Rules. The relief is discretionary although, as it has been said often, the discretion must be exercised judicially, that is to say, judiciously and upon defined principles of law; not capriciously or whimsically. Therefore, stay of execution should only be granted where sufficient cause has been shown by the Applicant. And in determining whether sufficient cause has been shown, the court should be guided by the three prerequisites provided under Order 42 Rule 6 of the Civil Procedure Rules.”
41. In determining whether the sufficient cause has been established, the court will examine whether the Applicant has satisfied the three mandatory prerequisites for the grant of stay pending appeal.
42. On the condition that the application should be brought without unreasonable delay, the court notes that the Ruling sought to be appealed against was delivered on 22nd December, 2021 whereas the present Application was filed a day later on 23rd December, 2021. It therefore follows that the Appellant has satisfied this condition.
43. What amounts to substantial loss was expressed by the Court of Appeal in the case of *Rhoda Mukuma v John Abuoga* [1988] eKLR where their Lordships stated that;

“Granting a stay in the High Court is governed by Order XLI rule 4(2), the questions to be decided being – (a) whether substantial loss may result unless the stay is granted and the application is made without delay; and (b) the applicant has given security. The discretion under rule 5(2)(b) is at large, but as was pointed out in the Kenya Shell case substantial loss is the cornerstone of both jurisdictions. That is what has to be prevented, because such loss would render the appeal nugatory...”
44. In the case of *Tropical Commodities Suppliers Limited 7 others v International Credit Bank Ltd (in liquidation)* (2004) 2 EA 331 the Court persuasively defined the aspect of substantial loss thus;

“Substantial loss does not represent any particular mathematical formula. Rather, it is a qualitative concept. It refers to any loss, great or small, that is of real worth or value as distinguished from a loss without value is a loss that is merely nominal.”



45. The court is further alive to the principle that a party claiming that it will suffer substantial loss is obligated to demonstrate that. As correctly cited by the Respondents, this was enunciated by the Court of Appeal in *Kenya Shell Limited v Benjamin Karuga Kibiru & another* [1986] eKLR.
46. The Appellant asserts that it is a protected tenant and that if a stay is not granted, the levy of distress will ultimately lead to its eviction from the premises thus compromising the jurisdiction of the Tribunal and rendering the Appeal nugatory and that it is in occupation of the suit property which it constructed and remains uncompensated for its investment therein which is currently valued at Kshs 98,000,000.
47. On their part, the Respondents contend that no substantial loss has been demonstrated by the Appellant whose application is based on unconfirmed statements and that the mere fact of apprehension that the process of execution may commence does not in itself amount to substantial loss as execution is a lawful process.
48. In the present Appeal, this court has not been invited to determine the dispute between the Appellant and the Respondents with respect to the validity or otherwise of the eviction notice and the rental disputes. Indeed, that issue has not been determined by the Business Premises Rent Tribunal which has the requisite jurisdiction to determine such issues in the first instance in respect to protected tenants.
49. What the Appellant is asking from this court are orders setting aside the dismissal of the Reference by the Tribunal and the re-opening of the same to be determined by the Tribunal on merits.
50. The Business Premises Rent Tribunal is a creature of the *Landlord and Tenant (Shops, Hotels and Catering Establishments) Act*. The Tribunal's jurisdiction is circumscribed in Section 12 of the Act under which subrule (4) provides as follows:
 - (4) In addition to any other powers specifically conferred on it by or under this Act, a Tribunal may investigate any complaint relating to a controlled tenancy made to it by the landlord or the tenant, and may make such order thereon as it deems fit..."
51. It is trite that for the Tribunal to be seized of a matter, there must be in existence a landlord and tenant relationship. This was affirmed by the Court of Appeal in *Jitendra Mathurdas Kanabar & 2 others v Fish & Meat Ltd*. Civil Appeal No. 267 of 1996 where it was stated that once a Reference has not been made to the tribunal and the tenancy notice has taken effect, the landlord/tenant relationship comes to an end.
52. It follows from the foregoing that if the Appellant was to be evicted from the suit premises, the landlord and tenant relationship between itself and the Respondents would terminate and the court would in determining the Appeal be conducting an academic exercise as the Appeal would have been rendered nugatory.
53. Further, if it turns out at trial to be true that the Appellant has substantially contributed to the construction of the property, and that it is entitled to compensation, the Appellant will suffer substantial loss if it is evicted from the suit property and/or distressed for rent before a determination can be made as to whether its investment, if at all, has been offset.
54. The final aspect for consideration is whether the Appellant has provided security for due performance of the decree should the Appeal ultimately fail. The determination under this head will encompass the Respondents' application dated 10th February, 2022 seeking for security.
55. Vide his Supplementary Affidavit of 25th April, 2022, the Appellant's Executive Director deponed that he is ready and willing to abide by the court's conditions as to security. Indeed, this is one of the



prerequisites for stay pending Appeal. In the case of *Exclusive Mines Limited & another vs Ministry of Mining & 2 others* [2015] eKLR, the court stated as follows:

“...On the issue of furnishing security, my understanding is that an applicant seeking an order of stay pending appeal should, as a sign of good faith, offer or propose any such security for the performance of the decree which the appeal has been preferred. I have looked at the Interested party’s affidavit in support of his Notice of Motion and nowhere in his seventeen (17) paragraph affidavit does he make any offer of any security nor bind himself to meet any such orders that the Court may impose. While the law leaves it to the Court’s discretion to make such orders as to security as it may deem fit, it is a good practice for an applicant seeking such an order to intimate to the Court his preparation to meet such orders as the Court may impose as this assists the Court while exercising its discretion in that respect.”

56. The purpose of security in a stay of execution application pending Appeal is to guarantee the due performance of the decree that may ultimately be binding upon the applicant. It is not to punish the Applicant.
57. In the present case, the orders of the Tribunal in dismissing the Reference merely granted the Respondent leave to proceed with the levying of the distress which had commenced. It would appear from the Auctioneers Notification of Sale No 2313 that as at 21st June, 2021, the amount due as rent was Kshs 6, 254,000. It is now almost one year since the said notification of sale was issued by the auctioneers.
58. Noting the fact that the Appellant is a tenant, and is in occupation of the suit premises and running a hotel, and considering that the Appellant has admitted that it has not been paying rent for the suit premises on the ground that it had an oral agreement with the Respondents’ late father to recoup its investment, I shall order for security of Kshs. 10,000,000 to be deposited in a joint interest earning account to be opened and held by the advocates of the two parties pending the hearing and determination of the appeal.
59. With respect to the orders seeking compensation for the distressed goods, the same cannot lie before a determination as to the validity or otherwise of the distress. The upshot of the foregoing is that the applications dated 10th February, 2022 and 22nd December, 2021 are allowed as follows:
 - a. a. The Landlord/Respondents are hereby temporarily prohibited and restrained from evicting the Tenant and/or distressing the Tenant’s/Applicant’s property for Rent pending the hearing and determination of the Appeal.
 - b. b. A stay of execution of the Ruling and Orders of the Learned Vice Chairlady Honourable Patricia May in Nairobi Business Premises Rent Tribunal Case No 217 of 2021 is hereby granted pending the hearing and determination of the Appeal.
 - c. c. The above two orders are granted on condition that the Appellant/Tenant deposits Kshs. 10,000,000 in a joint interest earning account to be opened in the names of the Appellant’s and the Respondents’ advocates within 10 days from the date of this Ruling, failure of which execution to issue as directed by the Tribunal.
 - d. d. The Record of Appeal to be filed within 30 days of this Ruling.
 - e. e. Each party to bear its/their own costs.

DATED, SIGNED AND DELIVERED VIRTUALLY IN NAIROBI THIS 19TH DAY OF MAY, 2022.



O. A. ANGOTE

JUDGE

In the presence of;

Mr. Otwal for Respondent

Ms Kibebo for Appellant

Court Assistant – John Okumu

