



**Next Group Solutions v Innovius Limited (Civil Appeal E1223 of 2024)
[2025] KEHC 3391 (KLR) (Civ) (12 March 2025) (Ruling)**

Neutral citation: [2025] KEHC 3391 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

CIVIL

CIVIL APPEAL E1223 OF 2024

AC MRIMA, J

MARCH 12, 2025

BETWEEN

NEXT GROUP SOLUTIONS APPELLANT

AND

INNOVIUS LIMITED RESPONDENT

RULING

1. This ruling relates to the Appellant/Applicant's application by way of a Notice of Motion dated 18th December 2024. The application sought to stay the execution of the decree in Nairobi Chief Magistrates Commercial Court Case No. 6638 of 2019 between the parties wherein the Applicant was adjudged to pay the Respondent the sum of Kshs. 2,100,469/50 plus costs and interest. That was vide the judgment rendered on 27th September 2024.
2. Aggrieved by the decision, the Appellant preferred an appeal and contemporaneously filed the instant application. It also filed written submissions in further support to the application. A List of Authorities containing several decisions was also filed. The Applicant decreed that it had satisfied all the attendant conditions precedent to the grant of the orders sought and urged this Court allow the application.
3. The application was viciously opposed by the Respondent through a Replying Affidavit sworn by John Muriithi Mutwiri, on behalf of the 1st Respondent herein. They also filed a List of Authorities wherein several decisions were referred to. They urged this Court to dismiss the application as none of the conditions played out in the Applicant's favour.
4. This Court has carefully considered the application, the response, the written submissions and the decisions referred to. There is no doubt both parties have well-articulated the legal provisions and the attendant conditions under which the instant application is premised on.



5. One of the grounds of appeal raised by the Applicant is on the jurisdiction of the trial Court to deal with the matter given that the alleged cause of action arose within Meru County. Without dealing with the main appeal, suffice to say that jurisdiction is the lifeblood of a Court. Without it, a Court acts in vain. Therefore, if the appeal is to succeed even on this ground alone, and no stay orders are granted, then the Applicant may be forced to comply with a decision made without the force of law. This Court is certainly called upon to intervene and avoid such an eventuality. It is on that basis that this Court is satisfied that the Applicant stands to suffer substantial loss if the order is not granted. The application was also been filed timeously.
6. There was, as well, the contention on the issue of security. Unlike the Respondent who is calling for the deposit of the entire judgment sum in a joint-interest account, the Applicant deposed that it was struggling to remain afloat amid harsh economic times and that the Court should consider granting the stay orders without any security. This Court has considered the judgment and the evidence as captured therein. To me, in the interest of fair play and equity, this is a case where the Applicant, despite raising a jurisdictional issue, ought to offer security.
7. Consequently, this Court hereby makes the following final orders in a bid to further balance the parties' interests herein: -
 - a. The execution of the judgment and the decree in Nairobi Chief Magistrates Commercial Court Case No. 6638 of 2019 is hereby stayed subject to the Applicant depositing the sum of Kshs. 500,000/= [Five Hundred Thousand Only] in Court within 14 days of this order.
 - b. In case of default in [a] above, the order of stay of execution of the decree will stand automatically discharged and the Notice of Motion dated 18th December 2024 dismissed with costs assessed at Kshs. 20,000/= [Twenty Thousand Only] and the Respondent shall be at liberty to forthwith levy execution.
 - c. In the event of compliance with [a] above, the Appellant shall file and serve the Record of Appeal together with written submissions notwithstanding the non-availability of certified proceedings and/or decree, if so, within 14 days of [a] above.
 - d. Once served, the Respondent shall file and serve its written submissions within 14 days of service.
 - e. This matter shall be fixed for highlighting of submissions and/or for any such appropriate orders on a date to issue.

Orders accordingly.

DELIVERED, DATED AND SIGNED AT NAIROBI THIS 12TH DAY OF MARCH, 2025.

A. C. MRIMA

JUDGE

Ruling No. 1 virtually delivered in the presence of:

Mr. Kiptoo, Learned Counsel for the Applicant/Appellant.

Miss Ochola, Learned Counsel for the Respondent.

Michael – Court Assistant.

