



REPUBLIC OF KENYA



**KENYA LAW**  
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**Okoth v Sukari Industries Limited (Civil Appeal E054 of 2023)  
[2025] KEHC 16004 (KLR) (6 November 2025) (Ruling)**

Neutral citation: [2025] KEHC 16004 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT MIGORI  
CIVIL APPEAL E054 OF 2023  
ACA ONG'INJO, J  
NOVEMBER 6, 2025**

**BETWEEN**

**ANJELINA ADHIAMBO OKOTH ..... APPELLANT**

**AND**

**SUKARI INDUSTRIES LIMITED ..... RESPONDENT**

**RULING**

1. Judgment in the matter herein was delivered on 31st October 2024 in favour of the Respondent and it was ordered that the claims be remitted back for hearing and determination of the claim. Costs of the appeal were awarded to the Appellant. Subsequently, a bill of costs was taxed by the Deputy Registrar on 30th June 2025 and the Respondent was granted 30 days stay of execution.
2. Vide application dated 31st July 2025 the Respondent sought:
  1. Spent
  2. That this honourable court be pleased to grant an order of stay of execution of the Ruling and Certificate of Costs herein pending hearing and determination of this Application.
  3. That this honourable court be pleased to grant an order of stay of execution of the Ruling and Certificate of Costs herein pending hearing and determination of Migori High Court Appeal No. E075 of 2025 between the parties herein.
  4. That this honourable court be pleased to grant an order of stay of execution of the Judgement delivered in Rongo CMCC E071 of 2022 between the parties pending the hearing and determination of Migori High Court Appeal No. E075 of 2025 between the parties herein.
  5. That the Respondent bears the costs of this Application. The application is based on the grounds THAT:



- a. The Ruling in the matter was delivered on 30th June 2025 in favour of the respondent in the sum of Kshs 145,250/=.
  - b. That no stay of execution was issued and the applicant is exposed to the risk of execution and having its property attached.
  - c. That the Honourable court delivered its Judgment on 31st October 2024 directing the "matter be remitted back to the trial magistrate to make appropriate orders in regard to the prayers sought by the Appellant"
  - d. The parties reverted back to the trial court being Rongo Magistrates court in civil suit number E071 of 2022 in which a judgment was delivered in favor of the respondent against the applicant in the sum of Kshs. 253,580.
  - e. The Respondent being dissatisfied with the decision of the trial court lodged an appeal against the said decision vide Migori HCCA E075 of 2025.
  - f. That respondent thereafter proceeded to file and tax his bill of costs before this Honourable court pending the appeal in Migori HCCA E075 of 2025.
  - g. The Applicant is exposed to the risk of exaction and having its property attached and impounded as the respondent is peruses Migori HCCA E075 of 2025 against the applicant and arising out Migori HCCA E057 of 2023 between the parties herein.
  - h. That the Respondent has commenced execution of the Ruling and Certificate of Costs through Muriri Auctioneers vide letter of Instructions dated 28th July 2025.
  - i. If execution proceeds, then the Applicant's tools of trade will be attaced, impounded and sold and the Applicant's operations and running of day to day business disrupted to the great loss and damage that the Respondent cannot compensate.
  - j. The matter is pending appeal and if stay is not granted and execution proceeds to conclusion, and the Appeal fails and the Respondent being a person without any known meaningful source of income. would not be able to reimburse the costs and decretal sum.
  - k. That the Applicant stands to suffer from irreparable loss and damage that cannot be compensated by damages if execution proceeds.
  - l. It is therefore imperative and in the interests of justice that the Applicant be granted stay of execution.
  - m. That no prejudice whatsoever shall be occasioned to the Respondent should the instant application be allowed as prayed.
  - n. This Application has been brought without any unreasonable delay.
  - o. It is in the interest of justice that the instant application be allowed as prayed as and stay of execution in ruling dated 30th June 2025 and Certificate of Costs dated 22nd July 2025.
3. The application is also supported by the affidavit of Stephen Anthony Ougo sworn on 31st July 2025. When the application came up for hearing on 13th August 2025 orders of stay of execution were made in favour of the Respondent pending hearing and determination of the application.



4. This application was canvassed by way of written submissions
5. Upon taxation of the bill of costs on 30th June 2025 the Deputy Registrar granted 30 days stay of execution within which the Respondent was to pay the amount taxed.
6. The application and the rival submissions have been considered and it is the finding of this court that the Respondent has not satisfied the grounds upon which an order of stay of execution for taxed costs should be granted.
7. High Court Civil Appeal No. E075 of 2025 which the Applicant alleged would be rendered nugatory if the orders sought at not granted was lodged by the Appellant herein against Judgment and Decree of the court made on 21st May 2025 and is has nothing to do with the bill of costs for which the Respondent seeks stay of its execution.
8. The Applicant/Respondent has not offered any security and has not shown that they will suffer substantial loss.
9. The Applicant had already made a similar application for stay of execution and was granted 30 days to make good the taxed bill of costs. The Application is dismissed with no orders as to costs.
10. The ruling to apply in HCCA E054, 55, 56 and 58 of 2023.

**DELIVERED, DATED AND SIGNED AT MIGORI THIS 6TH DAY OF NOVEMBER 2025.**

**SIGNED BY/FOR:**

**HON. LADY JUSTICE ANNE ONG'INJO**

**THE JUDICIARY OF KENYA.**

**MIGORI HIGH COURT**

