



REPUBLIC OF KENYA



**KENYA LAW**  
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**Gechiko & 21 others v Kapil Bakery Limited & another (Cause  
175 of 2017) [2025] KEELRC 3495 (KLR) (4 December 2025) (Ruling)**

Neutral citation: [2025] KEELRC 3495 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT ELDORET  
CAUSE 175 OF 2017  
MA ONYANGO, J  
DECEMBER 4, 2025**

**BETWEEN**

**SAMUEL GECHIKO ..... 1<sup>ST</sup> CLAIMANT**  
**STEPHEN KIPRUTO KOSGEI ..... 2<sup>ND</sup> CLAIMANT**  
**JUSEPHAT KIPKOSGEI KOECH ..... 3<sup>RD</sup> CLAIMANT**  
**GEDION KIPCHIRCHIR LIMO ..... 4<sup>TH</sup> CLAIMANT**  
**GEOFFREY MUHONGO KINUTHIA ..... 5<sup>TH</sup> CLAIMANT**  
**GABRIEL GWAYERA ..... 6<sup>TH</sup> CLAIMANT**  
**MATROBA INDUSA WAINI ..... 7<sup>TH</sup> CLAIMANT**  
**KHAEMBA YAMAME ROBERT ..... 8<sup>TH</sup> CLAIMANT**  
**ALEXANDER VUSHULU MADEGWA ..... 9<sup>TH</sup> CLAIMANT**  
**PETER WAMALWA WEKESA ..... 10<sup>TH</sup> CLAIMANT**  
**EDWIN KIPROTICH TENDENEI ..... 11<sup>TH</sup> CLAIMANT**  
**ARON KURA ..... 12<sup>TH</sup> CLAIMANT**  
**SAMSON KIPROP CHERUIYOT ..... 13<sup>TH</sup> CLAIMANT**  
**SIMON SHILAGO KALAKACHA ..... 14<sup>TH</sup> CLAIMANT**  
**ALI KIPKEMBOI CHEPTOT ..... 15<sup>TH</sup> CLAIMANT**  
**PATRICK LINYALI MUHONGO ..... 16<sup>TH</sup> CLAIMANT**  
**SAMUEL K. MASINDE ..... 17<sup>TH</sup> CLAIMANT**  
**EVANS OKIYO EKASETE ..... 18<sup>TH</sup> CLAIMANT**  
**JOHN MBURIKA EHENZO ..... 19<sup>TH</sup> CLAIMANT**



**RONALD ADIRA ASINGIRA ..... 20<sup>TH</sup> CLAIMANT**  
**LEONARD OTUNDO SANTOS ..... 21<sup>ST</sup> CLAIMANT**  
**JOHN AMUKUNE ..... 22<sup>ND</sup> CLAIMANT**

**AND**

**KAPIL BAKERY LIMITED ..... 1<sup>ST</sup> RESPONDENT**  
**KANTILAL V RABADIYA ..... 2<sup>ND</sup> RESPONDENT**

### **RULING**

1. Judgement in this suit was delivered on 2<sup>nd</sup> May, 2025 in favour of the Claimants. Being dissatisfied with the decision of the court the Respondents filed a Notice of Appeal dated 13<sup>th</sup> May, 2025.
2. The Respondents further filed an application for stay of execution of the judgment and decree herein pending hearing and determination of the appeal dated 26<sup>th</sup> May, 2025.
3. In the grounds supporting the application and in the supporting affidavit and supplementary affidavit of Anne Halwenge Odwa, Counsel for the Respondents, it is stated that the Respondents have an arguable appeal with overwhelming chances of success, that should orders not be granted the Applicants stand to suffer irreparable loss as the Claimants are persons of no known means and would not be in a position to refund the decretal sum should the appeal succeed.
4. The Claimants opposed the application through the replying affidavit of Samuel Gechiko, the 1<sup>st</sup> Claimant sworn on 3<sup>rd</sup> June, 2025 which I have considered.
5. The application was disposed of by way of written submissions. Both parties filed submissions which I have considered.
6. The principles for grant of stay of execution pending appeal are set out in orders 42 Rule 6(2) of the Civil Procedure Rules which provides:

“(1). No appeal or second appeal shall operate as a stay of execution or proceeding under a decree or order appealed from except 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 subrule (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.”

7. In summary, the Applicant must comply with the following conditions:
  - a. Demonstrate that substantial loss may result to the applicant unless the order for stay is granted;
  - b. The application has been made without unreasonable delay
  - c. Security as to the due performance of the court orders is given by the applicant.
8. The court is satisfied that the Applicants have demonstrated that the Claimants are unlikely to refund the decretal sum should the appeal succeed as they are persons of no known means.
9. The Applicants have further demonstrated that both the notice of appeal and the instant application were filed timeously. The Notice of appeal is dated 13<sup>th</sup> may, 2025, 11 days after delivery of judgment on 2<sup>nd</sup> May, 2025. The instant application was filed on 26<sup>th</sup> May, 2025, about 24 days after delivery of Judgement and 13 days after filing of notice of appeal.
10. The only other factor for consideration is the deposit of security for the performance of the decree. The court is cognizant of the fact that the suit herein arose out of a redundancy which the Claimants averred was not carried out in accordance with the law. The reason for redundancy was the closing down of the bakery where the Claimants were working. This closure was in 2017.
11. Order 42 Rule 6(2) requires that an employer deposits “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.”
12. As the Respondents averred about the Claimants not being in a position to refund the decretal sum, so must the Applicants prove ability to pay the decretal sum should the appeal be unsuccessful. Having closed the bakery where the Claimants were working and having not indicated to the court any other means for securing the terminal dues of the Claimants as awarded by the court, it is the considered view of this court that the entire decretal sum be deposited into a joint interest earning account in the names of the counsel for the parties.
13. I accordingly order as follows:
  - a. There shall be stay of execution of the judgment and decree herein pending hearing and determination of the intended appeal by the Respondents.
  - b. The stay will be conditional upon the Applicants depositing the entire decretal sum into an interest earning account in the names of counsel for the parties within 30 days failing which the stay shall lapse.
14. The costs of this application shall abide the outcome of the intended appeal.
15. It is so ordered.

**DATED, SIGNED AND DELIVERED VIRTUALLY ON THIS 4<sup>TH</sup> DAY OF DECEMBER 2025**

**MAUREEN ONYANGO**

**JUDGE**

