

REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT
AT NAIROBI
ELRC APPEAL NO. E240 OF 2025

(Before D. K. N. Marete)

SANA INDUSTRIES LTD.....APPELLANT

VERSUS

JANE NJAMBI NJOROGE.....RESPONDENT

RULING

This is an application dated 24th July, 2025 seeking leave to file appeal out of time and stay of execution of the judgment of the trial court issued on 23rd June, 2025 pending hearing and determination of this application.

The application is grounded on the basis that the judgement of the trial court was made on 18th June, 2025 and an award of Kshs.643,770.00 made to the Respondent. On the same footing, the Applicant made an application for stay of execution and leave to appeal with the prayer for stay being granted.

The Applicant posits that the delay in filing appeal was occasioned by the engagement with the Respondent on an out of court settlement with the Respondent for two weeks after the delivery of judgment on 23rd June, 2025. This failure is occasioned by the Respondent's dalliance in not issuing a proposal for settlement on time and in any event, they are willing to offer security for the appeal. Again, this application has been made without any unreasonable delay and that it in the interest of justice that it be allowed in sustenance of intended appeal.

The Respondent in a Replying Affidavit sworn on 27th October, 2025 opposes the application for being fatally defective, vexatious, unmerited and abuse of process of court. It is their case that on or about 8th July, 2025, the intended applicants were served with computation of the decretal sum with a request for payment of which they ignored.

This application was filed on 23rd July, 2025 well over a month since delivery of judgment and the applicant has not demonstrated what loss they stand to suffer in the event of payment of decretal sum. They have neither demonstrated the Respondent's inability to repay this in the event of a successful appeal.

Further, the applicant has failed to establish a proper basis in which a stay would be fair to all parties or even their chances of success in their appeal. Overall, the Respondent deems the appeal unrealistic and not meritorious and therefore not material for stay of execution.

The reason adduced as a ground for stay of execution is not convincing. The Applicant posits that they were disabled from filing their appeal on time due to a negotiation process with a view to settlement. This is not a good excuse or reason for such failure. They were always aware of the timeline for appeal and refused to take heed. This court does not find it appropriate to exercise its discretion in favour of stay of execution. It is not merited.

I am therefore incline to dismiss the application with orders that each party bears their costs of the same.

Delivered, dated and signed this 9th day of December 2025.

D. K. Njagi Marete
JUDGE

Appearances:

1. Miss Pepela instructed by Wambugu & Muriuki Advocates for the Applicant.
2. Mr.Kuyoh instructed by Kuyoh & Company Advocates for the Respondent.