

**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI**

**CAUSE NO. 1874 OF 2015**

**RITA BOKE GASAYA ..... CLAIMANT/RESPONDENT**

**VERSUS**

**AZU'S LEATHER LIMITED .....RESPONDENT/APPLICANT**

**CORAM**

Before Lady Justice J.W. Keli

C/A Otieno

**RULING**

1. The applicant being dissatisfied with the judgment of Justice Ocharo Kebira delivered on the 16<sup>th</sup> May 2022 filed notice of appeal dated 27<sup>th</sup> May 2022. The parties filed a consent adopted by the court on the 26<sup>th</sup> September 2023 that the decretal sum and auctioneer charges be deposited in a joint interest earning bank account to be held in the names of the claimant and respondent's advocates pending the hearing and determination of the appeal. Compliance was to be within 7 days. The applicant defaulted leading to the respondent/judgment holder to taken out warrants for attachment. The instant application by way of Notice of Motion dated 4<sup>th</sup> November 2025 is brought under Order 51 Rule 1 and Order 42 Rule 6 of the Civil Procedure Rules, section 3 and 3A of the Civil Procedure Act sought for the following Orders-
  - a. Spent

- b. THAT the Honourable court be pleased to grant a temporary injunction against the Claimant/Respondent restraining them, their representatives, assigns and agents from attaching, selling and/or otherwise disposing off the Respondent/Applicant's business assets pending the hearing and determination of this application;
- c. THAT the Honourable court be pleased to grant a temporary injunction against the Claimant/Respondent restraining them, their representatives, assigns and agents from attaching, selling and/or otherwise disposing off the Respondent/Applicant's business assets pending the hearing and determination of the appeal herein;
- d. THAT cost of this application be in the cause.

Grounds of the application

2. THAT on 16th May, 2022 this Honourable court entered judgment in favour of the Claimant/Respondent for inter alia severance pay at Kshs. 51,923/=, overtime compensation at Kshs. 187,200/= plus interest and costs.
3. THAT the Respondent/Applicant being aggrieved by the said decision filed a notice of appeal on 27th May, 2022 together with a request to be supplied with copies of typed and certified proceedings, judgment and Decree also dated 27th May, 2022 which was well within the stipulated time and without undue delay. 3. THAT the ensuing appeal is pending hearing and the same has not been determined.
4. THAT however, the Claimant/Respondent through MORAN AUCTIONEERS, served upon the Respondent/Applicant's premises a warrant of attachment dated 31st October, 2025 and proclaimed various goods at the Respondent/Applicant's business premises and which goods constitute the

Respondent/Applicant's tools of trade and intends to remove the same from the Respondent/Applicant's premises and sell them by way of public auction on the 6th November, 2025.

5. THAT should the execution of the Decree be allowed to proceed it will render the Respondent/Applicant's appeal nugatory and cause the Respondent/Applicant to suffer irreparable loss and injury.
6. THAT the Respondent/Applicant has deposited the full decretal sum into an interest earning account held jointly by the Advocates of the parties herein as security pending the hearing and determination of the appeal.
7. THAT in the circumstances, it would be in the best interest of justice that the Orders sought be granted.
8. The application was supported by the affidavit of Azhar Tayabali sworn on the 4<sup>th</sup> November 2025 where he annexed copies of warrant of attachment and proclamation dated 31<sup>st</sup> October 2025 executed by Moran Auctioneers, and a copy of bank deposit slip to the aforesaid joint account.
9. The application was unopposed.
10. On the 24<sup>th</sup> November 2025, the applicant filed in court Consent of the parties as follows-

*'BY MUTUAL CONSENT IT IS HEREBY AGREED:*

1. THAT the sum of Kshs. 461,569/= together with accrued interest thereof, held at Cooperative bank of Kenya Limited in a joint account in the names of WILFRED KEGONYE BABU and CLIFFORD KIMATHI MUTHURI the Advocates for the claimant and the respondent respectively be released to the Advocate for the claimant upon execution of this consent.

2. THAT this matter together with any ensuing appeal be marked as settled.’’

11. The Court consequently adopts the Consent as Order of the Court. The application is deemed as compromised.

12. The Court adopts the consent by the parties dated 24<sup>th</sup> November 2025 as Order of the court as follows-

a. THAT the sum of Kshs. 461,569/= together with accrued interest thereof, held at Cooperative bank of Kenya Limited in a joint account in the names of WILFRED KEGONYE BABU and CLIFFORD KIMATHI MUTHURI the Advocates for the claimant and the respondent respectively be released to the Advocate for the claimant upon execution of this consent.

b. THAT this matter together with any ensuing appeal is marked as settled.

13. It is so Ordered.

**DATED, SIGNED, AND DELIVERED IN OPEN COURT AT NAIROBI THIS 23<sup>RD</sup>  
JANUARY, 2026.**

**J.W. KELI,**

**JUDGE.**

**IN THE PRESENCE OF:**

Court Assistant: Otieno

Applicant -Ms Onyacha h./b babu

Respondent- Kimathi

ORIGINAL