



**Kenya Tea Packers Limited v Onyango (Appeal E001 of 2025)
[2026] KEELRC 252 (KLR) (30 January 2026) (Ruling)**

Neutral citation: [2026] KEELRC 252 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KERICHO
APPEAL E001 OF 2025
J RIKA, J
JANUARY 30, 2026**

BETWEEN

KENYA TEA PACKERS LIMITED APPELLANT

AND

COLLINS OTIENO ONYANGO RESPONDENT

RULING

1. This Appeal was scheduled for Judgment today – 30th January 2026- but regrettably, for reasons given in this ruling, the Court has not been able to prepare the Judgment.
2. Judgment of the Trial Court was delivered about a year ago, on 2nd February 2025.
3. The Parties soon, first appeared before the Court on 25th March 2025, when they confirmed that the decretal amount had been deposited in a joint account, in fulfilment of a condition for grant of an order of stay of execution, pending appeal.
4. It was directed that the Record of Appeal is filed within 60 days.
5. On 20th June 2025, the Appellant informed the Court that it had not been able to file the Record of Appeal, because typed proceedings had not been supplied by the Trial Court.
6. Extension of time was granted by 30 days.
7. On 29th July 2025, typed proceedings were yet to be supplied, and the Record of Appeal therefore, not filed.
8. The Respondent took issue with the delay in having the Record of Appeal filed within the extended period.
9. The Appellant explained that it was not to blame, stating that it had become difficult to obtain the proceedings, because the handwriting of the Trial Magistrate was illegible.



10. The Court directed that the Record of Appeal is filed within 30 days, with or without the typed proceedings. When the typed proceedings became available, the Appellant could file a Supplementary Record of Appeal, introducing the typed proceedings.
11. On 2nd October 2025, the Appellant confirmed to the Court that it had filed and served the Record of Appeal, without the typed proceedings. The Respondent confirmed receipt of the incomplete Record of Appeal.
12. The Court directed that in the absence of the typed proceedings, the original file of the Trial Court, be placed in the Appeal file, and Parties to file and exchange their submissions, within 21 days apiece.
13. The last mention was on 27th November 2025, when the Appellant confirmed that it had prepared a Supplementary Record, and was granted leave to file it, within 7 days.
14. Judgment was reserved, with the concurrence of the Parties for today- 30th January 2026.
15. Unfortunately, the Supplementary Record still does not have the typed proceedings.
16. Part III of the E&LRC [Procedure] Rules, 2024, provides guidelines on how appeals are processed, heard and determined.
17. Rule 11 requires an Appellant to apply for copies of the proceedings, relevant documents and a copy of the Judgment, from the Trial Court, before filing the Memorandum of Appeal.
18. Rule 12 stipulates that the Appeal shall be filed within 30 days from the date the decision was delivered, and the Memorandum of Appeal served upon the Respondent within 21 days, from the date of filing.
19. Rule 15 [1] states that the Memorandum of Appeal, shall be accompanied by among others, certified copy of the proceedings.
20. Rule 15 [4] contemplates that there could be delays or other obstacles, in accessing the typed proceedings, and therefore allows the Court sitting on appeal, in addition to, or in lieu of the Record of Appeal, to call for and rely on the Trial Court file, in disposal of the Appeal.
21. This Court requested for the Trial Court file, pursuant to Rule 15 [4], in light of the prolonged time it was taking to have the Trial Court proceedings. It was hoped that the Court could read the handwritten proceedings of the Trial Court, in preparing the Judgment.
22. The original Trial Court file, was only forwarded to this Court on 14th January 2026. Initial enquiries from the Judge, were met with the response that the file could not be traced at the Registry at Kericho.
23. When eventually the file was availed, the Judge was completely unable to read the handwritten proceedings of the Trial Court.
24. It appears true, as pointed by the Appellant on 29th March 2025, that the handwritten proceedings are illegible.
25. Without the typed proceedings, and with the illegible handwritten proceedings in the original file, the Court is unable to prepare and deliver the scheduled Judgment.
26. Proceedings of the Trial Court, handwritten or typed, are the foundation of any appeal, and without them, there can be no appeal.
27. The only way the Appeal can be unlocked, considered and determined, is through returning of the Trial Court file, to the Trial Magistrate who is requested respectfully, to assist the typist, by reading his own handwriting to her, as she types the proceedings.



28. Not many witnesses were involved in the Trial, and reading and typing of the proceedings should not consume a lot of judicial time.
29. If this cannot be done, if typed proceedings cannot be procured, it will mean that no Appeal can conceivably be heard; the Parties cannot exercise their right of appeal; and, it may be necessary for this Court to declare proceedings of the Trial Court a mistrial, and direct hearing de novo.

It Is Ordered: -

- a. The Trial Court file shall be returned to the Trial Court.
- b. The Hon. Trial Magistrate is requested respectfully, to assist the typist in reading of the handwritten proceedings.
- c. If this cannot be done, the Appeal shall result in an order of mistrial and hearing on the Claim de novo.
- d. The orders of stay of execution pending appeal shall remain in force.
- e. Appeal to be mentioned on 4th March 2026.

DATED, SIGNED AND DELIVERED ELECTRONICALLY AT KERICHO, PURSUANT TO RULE 68[5] OF THE E&LRC [PROCEDURE] RULES, 2024, THIS 30TH JANUARY 2026.

JAMES RIKA

JUDGE

