



REPUBLIC OF KENYA



KENYA LAW
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**Onduma v Juma & 2 others (Appeal E042 of 2025)
[2026] KEELRC 258 (KLR) (30 January 2026) (Ruling)**

Neutral citation: [2026] KEELRC 258 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAKURU
APPEAL E042 OF 2025
J RIKA, J
JANUARY 30, 2026**

BETWEEN

BERNARD ONDUMA APPELLANT

AND

SILAS MULEKANO JUMA 1ST RESPONDENT

**ABSALOM MAKINDA T/A ONANA LAUNDRY & DRY
CLEANERS 2ND RESPONDENT**

**JOEL ONDUMA TA ONANA LAUNDRY & DRY
CLEANERS 3RD RESPONDENT**

RULING

1. The Appellant was the 3rd Respondent in the Claim before the Trial Court.
2. He was named as a Respondent alongside the 2nd and 3rd Respondents in the Appeal.
3. The 1st Respondent in the Appeal, was the Claimant at the Trial Court.
4. He was successful in his Claim, being awarded compensation for constructive dismissal and a raft of terminal benefits, costs and interest.
5. Judgment was against all the 3 Respondents, Absalom Makinda, Joel Onduma and Bernard Onduma.
6. In his Memorandum of Appeal, the Appellant Bernard Onduma, names his Co-Respondents in the Claim before the Trial Court, as Respondents. They are named with the Respondent in the Claim, as Respondents in the Appeal.
7. The Appellant alleges that his colleagues, the 2nd and 3rd Respondents were solely in charge of the business, when the 1st Respondent was dismissed.



8. The Appellant seeks orders for stay of execution of the Judgment, pending hearing and determination of the Appeal. His application is dated 11th August 2025.
9. The application is supported by an unsworn affidavit, which is indicated to have been sworn at Nakuru, on 11th August 2025. There is no stamp or signature in the affidavit availed to the Court, of the relevant Commissioner for Oaths.
10. The Appellant was granted orders of conditional stay of execution on 11th August 2025. He was to deposit the decretal sum in Court, within 14 days of the grant of the orders.
11. He had not complied with the orders, as of 1st September 2025, when the application was scheduled for mention.
12. The 1st Respondent, Decree-holder in the Trial Court, opposes the application, through his affidavit sworn on 19th September 2025.
13. He highlights that the affidavit in support of the application is not commissioned by a Commissioner for Oaths.
14. The Appellant and the 1st Respondent agreed to have the application determined on the strength of their submissions.

The Court Finds: -

15. The Memorandum of Appeal, includes 2nd and 3rd as Respondents. They were Respondents alongside the Appellant, before the Trial Court.
16. The Appellant did not disclose to the Court if the 2nd and 3rd Respondents were served with his application. They did not participate in the application.
17. It is true that the affidavit on record in support of the application, bears no name, stamp and signature of a Commissioner for Oaths. It is not a proper affidavit, to be relied upon by the Court.
18. The annexures in the supporting affidavit are not certified.
19. Other factors militating against grant of the orders sought, include that, the Appellant was granted an order of conditional stay of execution, which he dishonoured.

It Ordered: -

- a. The application filed by the Appellant, dated 11th August 2025 is declined.
- b. Costs to the 1st Respondent.

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

JAMES RIKA
JUDGE

