



**Elite Tools Limited v Murei (Civil Appeal (Application)
E564 of 2025) [2026] KECA 230 (KLR) (13 February 2026) (Ruling)**

Neutral citation: [2026] KECA 230 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NAIROBI
CIVIL APPEAL (APPLICATION) E564 OF 2025
SG KAIRU, M NGUGI & P NYAMWEYA, JJA
FEBRUARY 13, 2026**

BETWEEN

ELITE TOOLS LIMITED APPLICANT

AND

GILBERT KIPROTICH MUREI RESPONDENT

RULING

1. Gilbert Kiprotich Murei, the respondent, was injured in the course of his employment with his employer, the appellant/applicant. He sustained severe injuries. In accordance with The [Work Injury Benefits Act](#), the Director of Occupational Safety and Health Services awarded the respondent compensation in the amount of Kshs.813,340.00. That award was made on 11th March 2024. A notice of the award was sent to the applicant with a demand for payment, but it would appear the applicant did not honour the demand.
2. The respondent then moved the Employment and Labour Relations Court (ELRC) by an application dated 22nd October 2024. He applied to have the award adopted as a judgment of the court and for judgment to be entered in his favour against the applicant in terms of the award. Upon hearing that application, the learned Judge of the ELRC (Radido, J. as he then was) in a ruling delivered on 29th May 2025, allowed it and entered judgment in favour of the respondent against the applicant for Kshs.813,340.00 and interest at court rates.
3. Intending to challenge that ruling on appeal to this Court, the applicant filed a Notice of Appeal dated 5th June 2025 and followed it with the application, the subject of this ruling, dated 30th June 2025. In the application made under inapplicable provisions of the Civil Procedure Rules in addition to Rule 5(2)(b) of the Court of Appeal Rules, the applicant seeks an order of stay of execution of the said ruling pending the hearing and determination of the intended appeal.



4. Also sought in the same application is an order “to set aside orders of stay of execution issued by the trial court for the deposit of Kshs.813,340 as security” and for “review of the sum of Kshs.411,840 pending the hearing and determination of the intended appeal.” In reference to the latter prayer, it seems that the ELRC granted the applicant an order conditionally staying its ruling. However, the order of the ELRC in that regard is not exhibited and neither is there a notice of appeal in that regard.
5. Based on the grounds set out on the face of the application, the supporting and further affidavits sworn by Paul Kivuvi, an Accounts Manager of the applicant, and the applicant’s written submissions dated 30th July 2025 on which Mr. Eugene Akumu, learned counsel relied, it is urged that the applicant is facing financial crisis and is not in a position to deposit the entire amount of Kshs.813,340 as security pending appeal; that the applicant exhausted all possible avenues to raise the said amount without success; that the applicant will suffer substantial loss if the order of stay is not granted; and that this Court should set aside the orders for conditional stay and allow the applicant deposit Kshs.411,840 pending the hearing and determination of the appeal.
6. In his replying affidavit in opposition to the application, the respondent deponed that he sustained grave bodily spinal injuries and multiple rib fractures, among other injuries, and compensation was assessed by the Director of Occupational Safety and Health Services on 11th March 2024 as already mentioned; that upon assessment of compensation by the Director, the applicant did not challenge it and neither did it make payment despite demand having been made; and that the appeal is an abuse of the court process.
7. Learned counsel Miss. Kangethe for the respondent relied on written submissions, submitting that the appeal is not arguable and neither will it be rendered nugatory if the orders of stay are declined.
8. In its memorandum of appeal, the applicant complains, inter alia, that the ELRC condemned it unheard in contravention of principles of natural justice; that the Judge failed to consider that partial payments had already been made; and that the Judge did not adequately evaluate the evidence. Given that an arguable appeal is not one that will necessarily succeed (*Stanley Kangethe Kinyanjui vs. Tony Ketter & 5 Others* [2013] eKLR), we give the applicant the benefit of doubt in finding that the appeal is not frivolous.
9. We are however not persuaded that the applicant has satisfied the Court that the appeal will be rendered nugatory. The applicant has averred that it is experiencing financial difficulties. The concern, however, should be the financial ability of the respondent. The applicant does not assert that the respondent would not be able to refund the judgment amount in the event that the appeal succeeds. Moreover, it seems that the applicant already obtained conditional orders for stay of execution before the ELRC.
10. We have no material on the basis of which to exercise the Court’s discretion in favour of the applicant in this matter. The application fails and is dismissed with costs to the respondent.

DATED AND DELIVERED AT NAIROBI THIS 13TH DAY OF FEBRUARY 2026.

S. GATEMBU KAIRU, FCIArb, C.Arb.

COURT OF APPEAL

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MUMBI NGUGI

COURT OF APPEAL

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P. NYAMWEYA

JUDGE OF APPEAL

I certify that this is a true copy of the original.

Signed

DEPUTY REGISTRAR

