



REPUBLIC OF KENYA



KENYA LAW
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**Hair Manufacturing Limited (Darling Kenya) v Kirumba (Suing on behalf of LK - Minor)
(Civil Appeal E596 of 2025) [2026] KEHC 1382 (KLR) (Civ) (13 February 2026) (Ruling)**

Neutral citation: [2026] KEHC 1382 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)**

CIVIL

CIVIL APPEAL E596 OF 2025

AC MRIMA, J

FEBRUARY 13, 2026

BETWEEN

HAIR MANUFACTURING LIMITED (DARLING KENYA) APPELLANT

AND

WINFRED KIRUMBA (SUING ON BEHALF OF LK - MINOR) .. RESPONDENT

RULING

1. Through an application by way of a Notice of Motion dated 3rd June 2025, the Applicant sought for a stay of execution of the decision of the Commissioner for Data Protection dated 4th May 2025 where it was found liable and ordered to pay the Respondent Kshs. 700,000/=.
2. The application was hinged on grounds that the appeal raises weighty issues with high chances of success and that should execution issue, the appeal would be rendered nugatory.
3. Through a Replying Affidavit sworn on 19th June 2025, the Respondent was strenuously opposed to the application. He faulted the application for being incompetent on the basis that the decision being referred to was neither current nor certified. Further, he averred that the appeal has no chance of success and that the instant application was an effort by the Applicant to deny him enjoyment of the judgment. Additionally, he averred that the Applicant failed to demonstrate any prejudice it was likely to suffer should it comply with the determination by the Commissioner for Data Protection. He emphasized that the application was an abuse of the Court process, but reiterated that should the Court be inclined to grant the orders, then the Applicant be ordered to deposit the entire decretal sums in Court pending the hearing and determination of appeal.
4. The application was canvassed by way of written submissions. Parties' written submissions on record have been duly considered and will be ingrained in the latter part of this decision. Having perused the



application and the supporting affidavit thereto, the Replying Affidavit in response and the parties' written submissions, the issues that stand out for this Court's determination are whether:-

- i. The application is competent; and
 - ii. Whether the applicant has met the threshold for grant of orders of stay pending appeal.
5. On the first issue, the Respondent faulted the application for being incompetent on the basis that the decision being referred thereto was not current and further that the same was not certified. He emphasized that there was an existing reviewed/amended version of the determination and that the temporary order of stay that was issued by this Court was obtained by falsehood and misrepresentation and/or concealment of the fact that there existed an amended version of the decision. He relied on the case of *Vision Housing Cooperative LTD v Wairimu Kinyanjui & Another* [2015] eKLR to emphasize that the application should be struck out for being incompetent. The Applicant did not submit on this issue.
 6. There is no doubt that there is a decision by the Commissioner of Data Protection which decreed the sum of Kshs. 700,000/= to the Respondent. That decision will be eventually form part of the record of this appeal. Therefore, at this stage, it suffices to point out that there is a decision pending challenge whose details shall be dealt with in the main appeal. This Court, therefore, finds that Article 159(2) (d) of *the Constitution* comes to the aid of the Applicant which vouches for substantial justice. The application cannot, therefore, be faulted on the ground of incompetence and the ground hereby fails.
 7. Coming to the prerequisite conditions for grant of stay of execution as provided for under Order 42 Rule 6 of the Civil Procedure Rules, the Applicant has to satisfy that it filed the application timeously, demonstrates a substantial loss they are likely to suffer should stay not be granted and the issue of security for costs for due performance of the decree.
 8. In the instant case, the determination was made on 4th May 2025 while the instant application was filed on 4th June 2025. There was, therefore, no delay in filing the application. On the issue of substantial loss likely to be suffered, the Applicant is apprehensive that the financial status of the Respondent was unknown and further that the Respondent would not be prejudiced should this Court be inclined to grant the stay orders. The apprehension by the Applicant about the financial status of the Respondent is not unfounded especially noting that the Respondent has not established that he is a man of means capable of refunding the decretal amount should the appeal succeed. For this reason, it is this Court's considered view that the Applicant will suffer substantial loss in the event the Respondent is unable to pay back the decretal sums should the appeal succeed.
 9. On the third issue, this Court notes that the Applicant has already deposited Kshs. 500,000/= as security in Court as ordered. That security suffices.
 10. From the foregoing, the application is merited and is accordingly allowed in the following terms: -
 - a. An order of stay of execution of the determination of the Data Commissioner dated 4th May 2025 be and is hereby issued pending the hearing and determination of the appeal.
 - b. The Data Commissioner to avail the trial file to this Court and shall also indicate whether it intends to participate in these proceedings.
 - c. This matter shall be fixed for further directions before the Hon. Deputy Registrar on a date to issue.
 - d. Costs of the application to be in the appeal.

Orders accordingly.



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

A. C. MRIMA

JUDGE

Ruling virtually delivered in the presence of:

Mr. Gakuru, Learned Counsel for the Applicant.

Mr. Lumumba, Learned Counsel for the Respondent.

Michael/Amina – Court Assistants.

