



REPUBLIC OF KENYA



**KENYA LAW**  
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**West Kenya Sugar Company Limited v Olak (Appeal E031 of 2025)  
[2026] KEELRC 314 (KLR) (5 February 2026) (Ruling)**

Neutral citation: [2026] KEELRC 314 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT KAKAMEGA  
APPEAL E031 OF 2025  
DN NDERITU, J  
FEBRUARY 5, 2026**

**BETWEEN**

**WEST KENYA SUGAR COMPANY LIMITED ..... APPLICANT**

**AND**

**JARED OCHIENG OLAK ..... RESPONDENT**

**RULING**

1. In a ruling dated and delivered on 10<sup>th</sup> November 2025 the court ordered and directed as follows –
  - a. The applicant is hereby granted leave to appeal out of time and the intended appeal shall be lodged within 30 days of this ruling and a record of appeal filed and served within the said period.
  - b. A stay of execution of the decree in Kakamega CMC ELRC No. E073 of 2021 be and is hereby granted provided that the applicant shall deposit the entire decretal sum plus costs in court within 30 days of this ruling.
  - c. One-half (1/2) of the amount so deposited in (b) above shall be released to the respondent forthwith.
  - d. Failure to comply with any of the above cumulative orders shall lapse the leave and the stay of execution.
  - e. Costs of this application to the respondent in any event.
2. The appellant deposited the decretal sum of Kshs1,301,089/= on 10<sup>th</sup> December 2025 and filed a memorandum of appeal on 2<sup>nd</sup> December 2025.



3. When the matter came up for mention on 15<sup>th</sup> January 2026 the respondent's counsel argued that the appellant had failed to comply with the orders of 10<sup>th</sup> November 2025 and urged the court to strike out the appeal and release the deposited decretal sum to the respondent.
4. On the other hand, counsel for the appellant argued that the appellant complied with the orders as per the ruling of 10<sup>th</sup> November 2025 and that if at all it failed to do so the delay was minimal and excusable.
5. The above positions by respective counsel for the parties were expressed in oral submissions made on 15<sup>th</sup> January 2026 and reiterated on 29<sup>th</sup> January 2026 constraining the court to author this ruling.
6. There was no application, oral or formal, by the appellant for the extension of the timelines ordered by the court in the ruling of 10<sup>th</sup> November 2025.
7. The issue for determination by the court is whether the appellant indeed complied with the impugned orders and if not what orders the court may issue at this stage.
8. Rule 8 of the *Employment and Labour Relations Court Act* (Procedure) Rules, 2024 (the Rules) provides as follows – The Court may, if circumstances justify, extend the time prescribed for the filing of an appeal or any document relating to an appeal.
9. Rule 80 of the Rules provides as follows – The Court may, upon application or on its own motion, extend any time prescribed under these Rules or such time as may be stipulated in an order of the Court.
10. However, before the court dwells on the import and interpretation of the above provisions of the law, there is the fundamental issue of whether the memorandum of appeal was filed within the timeline allowed and whether the decretal sum was deposited within the time granted as per the ruling cited above.
11. The Rules of this court do not provide on how time should be computed and in the circumstances the court shall make reference to Order 50 of the Civil Procedure Rules.
12. My understanding of Order 50 of the Civil Procedure Rules is that unless specifically exempted, either by the law or by a court in an order to that effect, all days shall be taken into account when computing time.
13. There were no public holidays that fell within the 30 days that the court granted to the appellant to file the appeal and deposit the decretal sum. The 30 days were to run from the date of the ruling – 10<sup>th</sup> November 2025.
14. The court has computed 30 days from 10<sup>th</sup> November 2025 and confirmed that the same were lapsing on 10<sup>th</sup> December 2025. The court has also confirmed that the memorandum of appeal was filed on 2<sup>nd</sup> December 2025, well within the 30 days period allowed. However, the court notes that a record of appeal has not been filed yet.
15. The court further notes that the decretal sum was deposited on 10<sup>th</sup> December 2025. In my considered view, this deposit was made within the time allowed.
16. In the circumstances, the appellant indeed complied with the orders of the court except that a record of appeal has not been filed.
17. However, the court notes that the Deputy Registrar did not obtain the lower court's file until sometimes in January 2026. In those circumstances, the appellant may not be condemned for not filing the record of appeal within the initial 30 days granted in the ruling of 10<sup>th</sup> November 2025.



18. In view of all the foregoing, the court shall suo motto allow the appellant to file and serve the record of appeal in 30 days of this ruling. This is intended to facilitate a fair and just hearing and disposal of the appeal.

19. In the meantime, the court orders that one half ( $\frac{1}{2}$ ) of the deposited sum - ( $\frac{1}{2} \times 1,301,029/= =$  Kshs650,515/=) - be released to the Advocates for the respondent forthwith.

**DELIVERED VIRTUALLY, DATED, AND SIGNED AT KAKAMEGA THIS 5<sup>TH</sup> DAY OF FEBRUARY 2026.**

.....

**DAVID NDERITU**

**JUDGE**

