



REPUBLIC OF KENYA



**KENYA LAW**

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**Kenya Trollies Limited & another v NK Brothers & 3 others (Commercial Case 122 of 2001) [2026] KEHC 2395 (KLR) (Commercial and Tax) (26 February 2026) (Ruling)**

Neutral citation: [2026] KEHC 2395 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)  
COMMERCIAL AND TAX  
COMMERCIAL CASE 122 OF 2001**

**PM MULWA, J**

**FEBRUARY 26, 2026**

**BETWEEN**

**KENYA TROLLIES LIMITED ..... 1<sup>ST</sup> PLAINTIFF**

**SAILESH SHASHIKANT PATEL ..... 2<sup>ND</sup> PLAINTIFF**

**AND**

**NK BROTHERS ..... 1<sup>ST</sup> DEFENDANT**

**PREMJI MAVJI KHODA ..... 2<sup>ND</sup> DEFENDANT**

**RAMESH MAVJI KHODA ..... 3<sup>RD</sup> DEFENDANT**

**PREVIN MAVJI KHODA ..... 4<sup>TH</sup> DEFENDANT**

**RULING**

1. Before me is an application dated 8<sup>th</sup> July 2025 by way of Notice of Motion filed by the Plaintiffs/Applicants and brought under Order 42 Rules 6 and 9, Order 22 Rule 22 and Order 51 Rules 1 and 4 of the Civil Procedure Rules as well as Sections 1A, 1B, 3 and 3A of the *Civil Procedure Act*.
2. The application majorly seeks a stay of execution of the judgment and decree herein, and all consequential orders arising therefrom including the award of costs awarded in the judgment and decree subject of appeal, and a stay of further proceedings including taxation of the Party and Party Bill of Costs herein dated 15<sup>th</sup> January 2025, which is also subject of appeal, be granted pending hearing and final determination of Nairobi Civil Appeal No. E025 of 2025, Kenya Trollies Limited and Another v N.K. Brothers Limited and Others. Costs are also sought to be in the cause.
3. The application has grounds on the face of the Notice of Motion that the Plaintiff being dissatisfied with this Court's judgment has filed an appeal, and therefore the pending taxation of the bill of costs



herein ought to be stayed to avoid injustice. The Plaintiffs appreciate that there is no decretal sum to secure, their suit having been struck out and there having been no counterclaim. They nevertheless state they are ready and willing to comply with any terms the court may impose as security.

4. The application was supported by affidavit of Sailesh Shashikant Patel sworn on 8<sup>th</sup> July 2025 which amplifies the grounds of the application.
5. The application is opposed through a replying affidavit sworn on 28<sup>th</sup> July 2025 by the 1<sup>st</sup> Defendant's Chief Executive Officer Rajesh Rathod who deponed that there was no imminent danger of execution as the judgment herein was a negative one, and the issue of costs could not be stayed.
6. The application was canvassed through written submissions. I have considered application, the response the rival submissions by parties. The Plaintiffs/Applicants' submissions are dated 17<sup>th</sup> July 2025, and those by the Defendants are dated 5<sup>th</sup> November 2025.
7. The Plaintiffs were aggrieved by a judgment of this court delivered on 19<sup>th</sup> November 2024 and therefore lodged an appeal before the court of appeal which is pending. They now seek an order staying execution of the judgment and decree herein, award of costs and stay of further proceedings including taxation of the bill of costs dated 15<sup>th</sup> January 2025.
8. I must state that there are no other proceedings other than taxation of the 1<sup>st</sup> and 4<sup>th</sup> Defendants' party and party bill of costs which is pending before the taxing officer.
9. The Respondents have opposed the application arguing that the Applicants have not raised any new and substantive issue in the appeals but only keen on denying them the opportunity to enjoy the fruits of their judgment.
10. As pointed out, only the bill of costs has not been taxed and therefore costs have not been ascertained. This means there can be no execution before ascertainment of the costs. It is difficult to assume that execution will proceed without cost having been taxed.
11. The Plaintiffs have also not shown the prejudice they will suffer if taxation of the bill of costs proceeds since the essence of taxing a bill of costs is to ascertain and certify costs payable to enable execution to commence.
12. In the circumstances, I am not persuaded that there is any merit in this application. Consequently, the application is dismissed with costs to the Defendants.

**RULING DELIVERED VIRTUALLY, DATED AND SIGNED AT NAIROBI.**

**THIS 26<sup>TH</sup> DAY OF FEBRUARY 2026.**

**P.M. MULWA**

**JUDGE**

In the presence of:

Mr. Kinyanjui for Plaintiffs/Applicants

Mr. Were for Defendants

Court Assistant: Carlos

