

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR
RELATIONS COURT AT NAKURU
APPEAL NUMBER E008 OF 2026**

BETWEEN

B.M. SECURITY LIMITEDAPPELLANT

AND

KENYA NATIONAL PRIVATE SECURITY WORKERS
UNIONRESPONDENT

RULING

1. Judgment was delivered in Nakuru CMELRC No. 154 of 2021, in favour of the Respondent herein.
2. The Respondent presented the Claim on behalf of its member, a former Employee of the Appellant, Emmanuel Ibawalat Emase.
3. Emase was alleged to have been dismissed unfairly by the Appellant, and was granted compensation and terminal benefits.
4. According to the Appellant's submissions, the total amount awarded is about Kshs. 800,000.
5. The Appellant has appealed against the decision, and filed an application for stay of execution, dated 8th January 2026.

6. The application is founded on the affidavit of the Appellant's Advocate Silas Biyogo, sworn on 8th January 2026, and a supplementary affidavit sworn on 27th January 2026.
7. He states that the Appellant has a good and arguable appeal; execution would render the Appeal nugatory; the Respondent has not disclosed its financial status and may not be in a position to refund the decretal sum, in event the Appeal succeeds; and the Appellant shall comply with any order for deposit of security.
8. The Respondent opposes the application through an affidavit sworn by its Nakuru Branch Secretary, Geoffrey Onyulo, on 26th January 2026.
9. Onyulo terms the application as vexatious, and an abuse of the process. The Appellant has not demonstrated what loss it would incur, if the application is not granted. The Appellant has not offered security, and is only intending to delay the Grievant, in enjoyment of his fruits of litigation.

The Court Finds: -

10. The Appellant has not established that the Respondent Union, would not be in a position to refund the decretal sum, in event the appeal is successful.

11. The Respondent is an old, established and reputable trade union, which has long represented security guards in the private security industry, countrywide.
12. The Court does not think that it would be difficult to pursue recovery of the decretal sum from the Respondent, in event the Appeal is successful.
13. It is not the duty of the Respondent to disclose its financial status as suggested by the Appellant. It is the duty of the Appellant to prove that it would incur substantial loss, if stay is not granted. This duty includes establishing that the Respondent lacks the means to repay the decretal sum, if the Appeal succeeds.
14. As the Grievant is not directly involved in the application, and as he has not deponed any affidavit, it would be prudent to exercise a degree of caution, by directing that the decretal sum, if paid to the Respondent Union, is retained by the Respondent, in a trust account, until the Appeal is heard and determined.
15. The Court declines the application, and **orders:** -
 - a. ***The Respondent is at liberty to execute decree of the Trial Court.***
 - b. ***The Respondent shall retain decretal sum in trust for the Grievant, until the Appeal is heard and determined.***

- c. ***In event the Appeal is successful, the Respondent shall refund the decretal sum to the Appellant.***

- d. ***No order on the costs.***

Dated, signed and delivered electronically at Nakuru, under Rule 68 [5] of the E&LRC [Procedure] Rules, 2024, this 30th day of April 2026.

James Rika

Judge

